



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

Pages 52471–52878

OFFICE OF THE FEDERAL REGISTER



The **FEDERAL REGISTER** (ISSN 0097-6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see [www.federalregister.gov](http://www.federalregister.gov).

The seal of the National Archives and Records Administration authenticates the **Federal Register** as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at [www.govinfo.gov](http://www.govinfo.gov), a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 1, 1 (March 14, 1936) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, [gpocusthelp.com](mailto:gpocusthelp.com).

The annual subscription price for the **Federal Register** paper edition is \$860 plus postage, or \$929, for a combined **Federal Register**, **Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is \$330, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register**, including postage, is based on the number of pages: \$11 for an issue containing less than 200 pages; \$22 for an issue containing 200 to 400 pages; and \$33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for \$3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see [bookstore.gpo.gov](http://bookstore.gpo.gov).

There are no restrictions on the republication of material appearing in the **Federal Register**.

**How To Cite This Publication:** Use the volume number and the page number. Example: 85 FR 12345.

**Postmaster:** Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

## SUBSCRIPTIONS AND COPIES

### PUBLIC

#### Subscriptions:

Paper or fiche	202-512-1800
Assistance with public subscriptions	202-512-1806

**General online information** 202-512-1530; 1-888-293-6498

#### Single copies/back copies:

Paper or fiche	202-512-1800
Assistance with public single copies	1-866-512-1800 (Toll-Free)

### FEDERAL AGENCIES

#### Subscriptions:

Assistance with Federal agency subscriptions:

Email	<a href="mailto:FRSubscriptions@nara.gov">FRSubscriptions@nara.gov</a>
Phone	202-741-6000

The Federal Register Printing Savings Act of 2017 (Pub. L. 115-120) placed restrictions on distribution of official printed copies of the daily **Federal Register** to members of Congress and Federal offices. Under this Act, the Director of the Government Publishing Office may not provide printed copies of the daily **Federal Register** unless a Member or other Federal office requests a specific issue or a subscription to the print edition. For more information on how to subscribe use the following website link: <https://www.gpo.gov/frsubs>.



# Contents

## Federal Register

Vol. 85, No. 166

Wednesday, August 26, 2020

### Agriculture Department

*See* Animal and Plant Health Inspection Service

*See* Food and Nutrition Service

*See* Forest Service

#### PROPOSED RULES

Regulatory Agenda:

Semiannual Regulatory Agenda, 52670–52674

### Animal and Plant Health Inspection Service

#### NOTICES

Determination of the Highly Pathogenic Avian Influenza and Newcastle Disease Status of Romania, 52541–52542

### Architectural and Transportation Barriers Compliance Board

#### PROPOSED RULES

Regulatory Agenda:

Semiannual Regulatory Agenda, 52760

### Commerce Department

*See* International Trade Administration

*See* National Oceanic and Atmospheric Administration

#### PROPOSED RULES

Regulatory Agenda:

Semiannual Regulatory Agenda, 52676–52694

### Bureau of Consumer Financial Protection

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 52559–52560

### Centers for Disease Control and Prevention

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 52604–52606

### Centers for Medicare & Medicaid Services

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 52606

### Children and Families Administration

#### NOTICES

Meetings:

Office on Trafficking in Persons, 52608–52609

Office of Human Services Emergency Preparedness and Response Statement of Organization, Functions, and Delegations of Authority, 52607–52608

### Committee for Purchase From People Who Are Blind or Severely Disabled

#### PROPOSED RULES

Regulatory Agenda:

Semiannual Regulatory Agenda, 52762

### Commodity Futures Trading Commission

#### PROPOSED RULES

Regulatory Agenda:

Semiannual Regulatory Agenda, 52806–52807

### Bureau of Consumer Financial Protection

#### PROPOSED RULES

Regulatory Agenda:

Semiannual Regulatory Agenda, 52810–52814

### Consumer Product Safety Commission

#### PROPOSED RULES

Regulatory Agenda:

Semiannual Regulatory Agenda, 52806–52807

### Defense Department

#### PROPOSED RULES

Regulatory Agenda:

Semiannual Regulatory Agenda, 52696–52698

Regulatory Agenda:

Semiannual Regulatory Agenda, 52792–52804

#### NOTICES

Arms Sales, 52560–52581

### Education Department

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Study of District and School Uses of Federal Education Funds, 52581–52582

Meetings:

President's Advisory Commission on Hispanic Prosperity, 52582

### Election Assistance Commission

#### NOTICES

Standardized Format to be used for Both Interim and Final Progress Reporting, 52583

### Energy Department

*See* Federal Energy Regulatory Commission

#### PROPOSED RULES

Regulatory Agenda:

Semiannual Regulatory Agenda, 52700–52702

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Contracting, 52583–52584

### Environmental Protection Agency

#### RULES

Pesticide Tolerances:

Inpyrfluxam, 52483–52488

#### PROPOSED RULES

Hearing:

Control of Air Pollution from Airplanes and Airplane Engines; Greenhouse Gas Emission Standards and Test Procedures, 52514–52515

Regulatory Agenda:

Semiannual Regulatory Agenda, 52764–52770

#### NOTICES

Certain New Chemicals:

Receipt and Status Information for July 2020, 52594–52601

E85 Flexible Fuel Vehicle Weighting Factor (F-factor) for Model Years 2021 and Later Vehicles, 52590–52592

Pesticide Registration Review:

Interim Decisions for Several Pesticides, 52601–52602

Product Cancellation Order for Certain Pesticide Registrations:  
Difenacoum, 52592–52594

#### **Executive Office for Immigration Review**

##### **PROPOSED RULES**

Administrative Closure:  
Appellate Procedures and Decisional Finality in Immigration Proceedings, 52491–52514

#### **Farm Credit Administration**

##### **NOTICES**

Privacy Act; System of Records, 52602–52603

#### **Federal Communications Commission**

##### **RULES**

IP CTS Improvements and Program Management, 52489  
Regulatory Agenda:  
Semiannual Regulatory Agenda, 52822–52849

#### **Federal Energy Regulatory Commission**

##### **NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 52584–52585  
Application:  
Cimarron River Pipeline, LLC; Ladder Creek, LLC, 52587–52588  
Combined Filings, 52589–52590  
Environmental Review:  
ANR Pipeline Co., Great Lakes Transmission Limited Partnership; Alberta Xpress Project and Lease Capacity Abandonment Project, 52588–52589  
Inviting Post-Technical Conference Comments  
Northern Border Pipeline Co., 52588  
Request for Extension of Time:  
Magnum Gas Storage, LLC, 52586  
Supplemental Notice Waiving Regulations:  
Extension of Non-Statutory Deadlines, 52586–52587

#### **Federal Maritime Commission**

##### **NOTICES**

Agreements Filed, 52603

#### **Federal Permitting Improvement Steering Council**

##### **PROPOSED RULES**

Regulatory Agenda:  
Semiannual Regulatory Agenda, 52876–52877

#### **Federal Railroad Administration**

##### **NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 52657–52659

#### **Federal Reserve System**

##### **PROPOSED RULES**

Regulatory Agenda:  
Semiannual Regulatory Agenda, 52852–52853

##### **NOTICES**

Change in Bank Control:  
Acquisitions of Shares of a Bank or Bank Holding Company, 52603–52604  
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 52604

#### **Fish and Wildlife Service**

##### **PROPOSED RULES**

Endangered and Threatened Species:  
Status for Marron Bacora and Designation of Critical Habitat, 52516–52540

##### **NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:  
Alaska Guide Service Evaluation, 52631–52632  
Depredation and Control Orders, 52628–52631  
Environmental Assessments; Availability, etc.:  
Multiple Species Conservation Program, County of San Diego Subarea Plan for Otay Ranch Village 14 and Planning Areas 16 and 19, San Diego County, CA, 52627–52628

#### **Food and Drug Administration**

##### **NOTICES**

Meetings:  
Drug Safety and Risk Management Advisory Committee and the Anesthetic and Analgesic Drug Products Advisory Committee, 52609–52610

#### **Food and Nutrition Service**

##### **RULES**

Taking Administrative Actions Pending Freedom of Information Act Processing, 52471–52479

#### **Forest Service**

##### **NOTICES**

Environmental Impact Statements; Availability, etc.:  
Caribou Targhee National Forest; Teton County; Wyoming; Grand Targhee Resort Master Development Plan Projects, 52542–52543

#### **General Services Administration**

##### **PROPOSED RULES**

Regulatory Agenda:  
Semiannual Regulatory Agenda, 52664–52668  
Regulatory Agenda:  
Semiannual Regulatory Agenda,

#### **Health and Human Services Department**

*See Centers for Disease Control and Prevention*  
*See Centers for Medicare & Medicaid Services*  
*See Children and Families Administration*  
*See Food and Drug Administration*  
*See National Institutes of Health*

##### **RULES**

Approval Tests and Standards for Air-Purifying Particulate Respirators, 52488

##### **PROPOSED RULES**

Guidance:  
Good Guidance Practices; Correction, 52515–52516  
Regulatory Agenda:  
Semiannual Regulatory Agenda, 52704–52714

##### **NOTICES**

Review and Revision of the Screening Framework Guidance for Providers of Synthetic Double-Stranded DNA, 52611–52613

#### **Homeland Security Department**

*See U.S. Citizenship and Immigration Services*

##### **PROPOSED RULES**

Regulatory Agenda:  
Semiannual Regulatory Agenda, 52716–52724

#### **Housing and Urban Development Department**

##### **RULES**

Section 108 Loan Guarantee Program:  
Fee to Cover Credit Subsidy Costs for Fiscal Year 2021, 52479–52481

#### **Interior Department**

*See Fish and Wildlife Service*

See Reclamation Bureau  
See Surface Mining Reclamation and Enforcement Office

**PROPOSED RULES**

## Regulatory Agenda:

Semiannual Regulatory Agenda, 52726–52728

**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Improving Customer Experience, 52632–52633

**Internal Revenue Service****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 52659

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Certain Transfers of Domestic Stock or Securities by Persons to Foreign Corporations, 52660  
Regulation Project, 52659–52660

**International Trade Administration****NOTICES**

Antidumping or Countervailing Duty Investigations, Orders, or Reviews:

Certain Chassis and Subassemblies Thereof from the People's Republic of China, 52549–52552

Utility Scale Wind Towers from Canada, Indonesia, and the Socialist Republic of Vietnam, 52543–52545

Utility Scale Wind Towers from Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam, 52546–52548

Initiation of Less-Than-Fair-Value Investigation:

Certain Chassis and Subassemblies Thereof from the People's Republic of China, 52552–52557

Sales at Less Than Fair Value; Determinations, Investigations, etc.:

Non-Refillable Steel Cylinders from the People's Republic of China, 52548–52549

**International Trade Commission****NOTICES**

2021 Annual Report:

Recent Trends in United States Services Trade, 52638–52640

Investigations; Determinations, Modifications, and Rulings, etc.:

Certain Unmanned Aerial Vehicles and Components Thereof, 52640–52641

COVID–19 Related Goods: The U.S. Industry, Market, Trade, and Supply Chain Challenges, 52637–52638

**Justice Department**

See Executive Office for Immigration Review

**Labor Department****PROPOSED RULES**

## Regulatory Agenda:

Semiannual Regulatory Agenda, 52730–52735

**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery, 52641–52642

**Management and Budget Office****PROPOSED RULES**

## Regulatory Agenda:

Semiannual Regulatory Agenda, 52780

**National Aeronautics and Space Administration****PROPOSED RULES**

## Regulatory Agenda:

Semiannual Regulatory Agenda, 52792–52804

**National Archives and Records Administration****NOTICES**

## Meetings:

Freedom of Information Act Advisory Committee, 52642

**National Institutes of Health****NOTICES**

## Meetings:

Advisory Committee to the Director, 52613–52614

Center for Scientific Review, 52615, 52618

Helping to End Addiction Long-term Multi-Disciplinary Working Group, 52617

National Institute of Allergy and Infectious Diseases, 52614–52617

National Institute of Dental and Craniofacial Research, 52616

National Institute of Diabetes and Digestive Kidney Diseases, 52615, 52617–52618

National Institute of Neurological Disorders and Stroke, 52613

National Institute on Aging, 52615–52617

National Institute on Alcohol Abuse and Alcoholism, 52613

National Institute on Minority Health and Health Disparities, 52614

**National Labor Relations Board****PROPOSED RULES**

## Regulatory Agenda:

Semiannual Regulatory Agenda, 52856

**National Oceanic and Atmospheric Administration RULES**

Fisheries of the Exclusive Economic Zone off Alaska:

Blackspotted and Rougheye Rockfish in the Central Aleutian Islands and Western Aleutian Islands Districts of the Bering Sea and Aleutian Islands Management Area, 52489–52490

**PROPOSED RULES**

Semiannual Regulatory Agenda, 52778

**NOTICES**

## Meetings:

Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review, 52557

Gulf of Mexico Fishery Management Council, 52558–52559

New England Fishery Management Council, 52558–52559

South Atlantic Fishery Management Council, 52557–52558

**National Science Foundation****NOTICES**

## Meetings:

Advisory Committee for Cyberinfrastructure, 52642–52643

**Nuclear Regulatory Commission****PROPOSED RULES**

## Regulatory Agenda:

Semiannual Regulatory Agenda,

**NOTICES**

Licensee Actions to Address Nonconservative Technical Specifications, 52643–52644

**Pension Benefit Guaranty Corporation****RULES**

Procedures for Guidance Documents, 52481–52483

**Postal Service****NOTICES**

Meetings; Sunshine Act, 52644

**Railroad Retirement Board****PROPOSED RULES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 52782

**Reclamation Bureau****NOTICES**

Quarterly Status Report:

Water Service, Repayment, and Other Water-Related Contract Actions, 52633–52635

**Regulatory Information Service Center****PROPOSED RULES**

Regulatory Agenda:

Semiannual Regulatory Agenda, 52664–52668

**Securities and Exchange Commission****PROPOSED RULES**

Regulatory Agenda:

Semiannual Regulatory Agenda, 52862–52870

**NOTICES**

Self-Regulatory Organizations; Proposed Rule Changes:

BOX Exchange, LLC, 52654–52656

ICE Clear Europe, Ltd., 52650–52654

The Nasdaq Stock Market, LLC, 52645–52650

**Small Business Administration****PROPOSED RULES**

Regulatory Agenda:

Semiannual Regulatory Agenda, 52784–52789

**NOTICES**

Disaster Declaration:

Illinois, 52656

Missouri; Administrative, 52656–52657

North Carolina, 52657

**Surface Mining Reclamation and Enforcement Office****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Abandoned Mine Reclamation Fund; Fee Collection and Coal Production Reporting; Coal Reclamation Fee Report, 52636

Abandoned Mine Reclamation Funds, 52636–52637

Subsidence Insurance Program Grants, 52635–52636

**Surface Transportation Board****PROPOSED RULES**

Regulatory Agenda:

Semiannual Regulatory Agenda, 52872–52873

**Transportation Department**

See Federal Railroad Administration

**PROPOSED RULES**

Regulatory Agenda:

Semiannual Regulatory Agenda, 52738–52754

**Treasury Department**

See Internal Revenue Service

**PROPOSED RULES**

Regulatory Agenda:

Semiannual Regulatory Agenda, 52756–52757

**U.S. Citizenship and Immigration Services****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Alien Change of Address Card, 52621

Application for Advance Permission to Enter as Nonimmigrant, 52620–52621

Application for Waiver of Grounds of Inadmissibility under Sections 245A or 210 of the Immigration and Nationality Act, 52622

Application for Waiver of the Foreign Residence Requirement of the Immigration and Nationality Act, 52623

Customer Profile Management System-IDENTity Verification Tool, 52626–52627

Interagency Record of Request A, G, or North Atlantic Treaty Organization Dependent Employment Authorization or Change/Adjustment To/From A, G, or North Atlantic Treaty Organization Status, 52618–52619

Petition for Qualifying Family Member of a U–1 Nonimmigrant, 52623–52624

Refugee/Asylee Relative Petition, 52619–52620

Request for Certification of Military or Naval Service, 52624–52625

Tip Form, 52625–52626

**Veterans Affairs Department****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Conflicting Interests Certification for Proprietary Schools, 52661–52662

State Approving Agency Reports and Notices, 52660–52661

**Separate Parts In This Issue****Part II**

Regulatory Information Service Center, 52664–52668

**Part III**

Department of Agriculture, 52670–52674

**Part IV**

Department of Commerce, 52676–52694

**Part V**

Department of Defense, 52696–52698

**Part VI**

Department of Energy, 52700–52702

**Part VII**

Department of Health and Human Services, 52704–52714

**Part VIII**

Department of Homeland Security, 52716–52724

**Part IX**

Department of the Interior, 52726–52728

**Part X**

Department of Labor, 52730–52735

**Part XI**

Department of Transportation, 52738–52754

**Part XII**

Department of the Treasury, 52756–52757

**Part XIII**

Architectural and Transportation Barriers Compliance Board, 52760

**Part XIV**

Committee for Purchase From People Who Are Blind or Severely Disabled, 52762

**Part XV**

Environmental Protection Agency, 52764–52770

**Part XVI**

General Services Administration, 52772–52776

**Part XVII**

National Aeronautics and Space Administration, 52778

**Part XVIII**

Office of Management and Budget, 52780

**Part XIX**

Railroad Retirement Board, 52782

**Part XX**

Small Business Administration, 52784–52789

**Part XXI**Department of Defense, 52792–52804  
General Services Administration, 52792–52804  
National Aeronautics and Space Administration, 52792–52804**Part XXII**

Commodity Futures Trading Commission, 52806–52807

**Part XXIII**

Consumer Financial Protection Bureau, 52810–52814

**Part XXIV**

Consumer Product Safety Commission, 52816–52819

**Part XXV**

Federal Communications Commission, 52862–52870

**Part XXVI**

Federal Reserve System, 52852–52853

**Part XXVII**

National Labor Relations Board, 52856

**Part XXVIII**

Nuclear Regulatory Commission, 52858–52860

**Part XXIX**

Securities and Exchange Commission, 52862–52870

**Part XXX**

Surface Transportation Board, 52872–52873

**Part XXXI**

Federal Permitting Improvement Steering Council, 52876–52877

**Reader Aids**

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to <https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new>, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

**CFR PARTS AFFECTED IN THIS ISSUE**

---

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

**1 CFR****Proposed Rules:**

1 (30 documents) .....52664,  
52670, 52676, 52696, 52700,  
52704, 52716, 52726, 52730,  
52738, 52756, 52760, 52762,  
52764, 52772, 52778, 52780,  
52782, 52784, 52792, 52806,  
52810, 52816, 52822, 52852,  
52856, 52858, 52862, 52872,  
52876

**7 CFR**

278 .....52471  
279 .....52471

**8 CFR****Proposed Rules:**

1003 .....52491  
1240 .....52491

**24 CFR**

570 .....52479

**29 CFR**

4908 .....52481

**40 CFR**

180 .....52483

**Proposed Rules:**

87 .....52514  
1030 .....52514

**42 CFR**

84 .....52488

**45 CFR****Proposed Rules:**

1 .....52515

**47 CFR**

64 .....52489

**50 CFR**

679 .....52489

**Proposed Rules:**

17 .....52516



# Rules and Regulations

Federal Register

Vol. 85, No. 166

Wednesday, August 26, 2020

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Parts 278 and 279

[FNS–2018–0021]

RIN 0584–AE63

#### Taking Administrative Actions Pending Freedom of Information Act (FOIA) Processing

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Supplemental Nutrition Assistance Program (SNAP or Program) regulations to ensure that retail food stores can no longer use the Freedom of Information Act (FOIA) process to delay FNS' administrative actions to sanction a retail food store for SNAP violations. Under this rule, FNS will process FOIA requests and FOIA appeals separately from the administrative action for all SNAP violations, as originally proposed. The processing of FOIA requests and appeals during the administrative and judicial review process will have no impact on when the agency can take administrative action.

**DATES:** This rule is effective October 26, 2020 and will apply to any FOIA request or appeal received by the agency on or after the effective date.

**FOR FURTHER INFORMATION CONTACT:** Vicky T. Robinson, Chief, Retailer Management and Issuance Branch, Retailer Policy and Management, 1320 Braddock Place, Alexandria, Virginia 22314, by phone at 703–305–2476, or by email at [vicky.robinson@usda.gov](mailto:vicky.robinson@usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

##### Current Process

SNAP regulations at 7 CFR 278.6 provide that retailers considered for a sanction as a result of committing a

program violation will be charged with those violations and have a full opportunity to respond to FNS prior to FNS' making a final administrative determination and applying the sanction. After FNS issues a charge letter to the store with detailed information regarding the nature of the violations, the firm has 10 days to respond to the charge letter, orally or in writing, with any information or evidence that explains the activities that led to the charges outlined in the letter. FNS does not consider a FOIA action as an official response to the charge letter. However, if a firm files a FOIA request after receiving a charge letter, FNS currently interrupts the administrative process, such as issuing a sanction determination, while the agency responds to the FOIA request. Even if the firm submits a response to the charge letter in addition to a FOIA request, FNS delays the review of the firm's charge letter response until FNS has responded to the FOIA request.

In the event that the firm appeals the agency's FOIA response, FNS again delays administrative action while it responds to the appeal. The FOIA requires FNS to provide a response to the initial request within 20 days of receipt. The FOIA also requires FNS to make a determination with respect to any appeal within 20 days of receipt. FNS is continually working to improve the time it takes to process FOIA requests and appeals and to reduce its backlog. Today, however, firms continue participating in SNAP and redeeming benefits until the FOIA actions are complete, regardless of the seriousness of the charges originally outlined in the charge letter or the fact that the firm has not submitted a formal response to the charges. Once responses to the FOIA request and FOIA appeal are complete, the agency renews administrative proceedings by either (a) reviewing the firm's official response to the charge letter if one has been submitted, or (b) giving the firm another 10 days to provide an official response.

If the firm's official response provides documentation supporting its stance relating to the charges outlined in the charge letter, FNS considers this documentation before issuing a notice of determination. It is only on the issuance of this notice of determination that FNS may impose sanctions against a firm.

Holding SNAP administrative actions, particularly the issuance of a notice of determination, in abeyance throughout the entire FOIA process has had a serious impact on SNAP integrity because FNS practice has enabled violating firms to continue to participate in SNAP during the FOIA process. From Fiscal Year (FY) 2015 to FY 2018, 1,550 SNAP retail food stores submitted FOIA requests to FNS after receiving a charge letter. Of those retail food stores, 902 appealed the agency's FOIA response. These 1,550 firms collectively redeemed over \$266 million in SNAP benefits while the FOIA actions were processed (see Table 1).

#### Proposed Action

In the Notice of Proposed Rulemaking (NPRM), FNS proposed to amend SNAP regulations in order to process FOIA requests and FOIA appeals separately from administrative actions FNS takes against retail food stores.

#### Summary of This Final Action

FNS adopts the NPRM as final. This final rule will apply to any FOIA request or appeal received by the agency on or after the publication date. In the final rule, FNS amends SNAP regulations in order to process FOIA requests and appeals separately from administrative actions while a sanction determination is made. In cases warranting permanent disqualification, the sanction is effective upon receipt of the agency determination notice, in accordance with statutory and regulatory requirements.

This ensures firms that are found to have committed the most egregious Program violations, such as trafficking, will be removed from the Program expeditiously, as Congress intended when it amended the Food and Nutrition Act of 2008 (FNA) to add requirements for permanent disqualifications to be effective from the date of receipt of the agency's determination notice.

The agency's issuance of determinations resulting in sanctions of non-permanent disqualification will become final and take effect 10 days after the firm receives the determination notice, unless the firm makes a timely request for administrative review. If an administrative appeal is filed in a non-permanent disqualification case, the final agency determination—rendered after the administrative review has been

completed—will take effect 30 days after the date of delivery of the determination notice to the firm. With the exception of firms disqualified from the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and reciprocally disqualified from SNAP, firms found to have violated program rules will continue to be afforded their full due process opportunities for administrative and judicial proceedings.

### General Summary of Public Comments

During the sixty-day comment period, which ended on April 22, 2019, FNS received ten public comments in response to the NPRM. Two comments were from retailer associations that stated they represent small businesses. Two comments were from public advocacy groups. One comment was from a State government office and one comment was received from an independent office within the U.S. Government's Small Business Administration. Four comments were received from the general public, and one of these was submitted on behalf of three individuals. All public comments can be viewed at <https://www.regulations.gov/docket?D=FNS-2018-0021>.

Three commenters expressed general support for the NPRM and its intention to make the administrative action process more efficient. Two of these commenters specifically identified the ability of some retailers charged with trafficking to continue accepting SNAP benefits while an administrative action is held in abeyance during the processing of a FOIA request or appeal as reason alone to promulgate a rule to separate these two processes. Several commenters opposed to the NPRM also cited the importance of removing retailers that traffic benefits, although the commenters did not view the NPRM as a step towards that general goal.

Seven commenters expressed opposition to the NPRM, primarily because of concerns about the impact on retailers' right to due process. Several of these commenters asserted that FNS' current administrative process makes FOIA necessary, suggesting that FNS' charge letter does not adequately explain the nature of the charges, and arguing the NPRM would take away the only available option for retailers to gain access to the evidence against them prior to being sanctioned. Some commenters also felt that the agency should release more records when responding to a FOIA request or during administrative procedures before judicial review. Some commenters questioned the validity of FNS'

assertions in the NPRM regarding the submission of extensive and complex FOIA requests, and appeals that repeatedly request information that has been consistently denied in prior requests, seemingly with the intention of delaying FNS' determination to disqualify or impose a civil monetary penalty against the firm. These commenters stated that FNS must provide a much clearer explanation, based on actual data, for its decision to separate the processing of FOIA actions from administrative decision-making is the correct course of action. Others expressed concern that the NPRM could create a disparate impact on small businesses, including minority-owned businesses and the communities they serve. Commenters requested FNS offer strategies to mitigate these potential impacts.

The comment summary and analysis in this preamble primarily focuses on general comment themes and those comments were considered in this final rule.

### Analysis of Comments

#### Charge Letter Content and Due Process Considerations

Several commenters suggested that FNS does not provide sufficient information regarding violations when charging retailers with such violations, thereby hampering retailers' due process rights.

When FNS identifies a firm that appears to have violated program rules, the agency issues a charge letter detailing the suspected violations, the sanction(s) that may be imposed for these violations, and the steps the firm must take if it wishes to address the charges before a determination is made and sanctions go into effect. The statute directs that the Secretary promulgate regulations outlining the criteria by which FNS may issue a charge letter on the basis of evidence that may include facts established through on-site investigations (an "investigative case"), inconsistent redemption data, or evidence obtained through a transaction report under an electronic benefit transfer system (a "data case"). Current regulations at 7 CFR 278.6(b) outline the charge letter process.

A data case is based on transaction data for the firm obtained through the SNAP Electronic Benefit Transfer (EBT) system and is analyzed in relation to the firm's business model and operation. For a data case, the charge letter provides the firm with a list of transactions that establish a clear and repetitive pattern of unusual, irregular, or inexplicable activity for the firm's

business type. The charge letter specifies the exact charge as well as the sanction provided by regulation for that violation. The charge letter also breaks down the transaction information further by the type of unusual activity, such as multiple transactions made from the same household accounts in a set period of time, or transactions for amounts inconsistent with observed store food stock and firm records. The information currently provided to the firm in the charge letter includes:

- A description of the unusual activity;
- the exact date and time of each transaction;
- the terminal ID number for the device used to conduct each transaction;
- the entry method of each transaction (such as "swipe" or "manual key entry of card number" at the point-of-sale);
- the exact amount of each transaction;
- the total number of transactions and dollar amount for each type of unusual activity; and
- the last four digits of the household account number associated with each transaction.

The charge letter also explains the firm's right to respond to the charges by presenting evidence or explanation for the unusual activity. The firm must submit this response within 10 days of receiving the charge letter, and may do so orally or in writing. The charge letter provides a name and phone number of a specific FNS employee to contact regarding this action and a mailing address for any documentation that the firm would like to submit in its defense.

For an investigative case, the charge letter provides the firm with a redacted copy of the investigator's report. Only information that would otherwise allow firms to identify undercover investigators is redacted. The report contains information regarding undercover visits to the retail food store made by the investigator and describes each visit in detail. The report indicates:

- The number of investigators;
- the number of visits;
- the start and end dates during which the visits occurred;
- the number of visits that resulted in a purchase that violated SNAP regulations;
- the date of the transaction(s);
- the exact transaction amount(s);
- the amount of SNAP benefits trafficked, if applicable; and
- the items purchased using SNAP benefits, and whether the item was eligible or ineligible.

As with the charge letter for a data case, the investigative charge letter also

explains the firm's right to respond to the charges by presenting evidence or explanation for the transactions that violated SNAP regulations. The firm must submit its response to the charges within 10 days of receiving the charge letter, and may do so orally or in writing. The charge letter provides a name and phone number of a specific FNS employee to contact, and a mailing address for any documentation that the firm would like to submit in its defense.

The agency disagrees with the assertion that retailers' due process rights are hampered by a lack of sufficient information regarding violations provided in a charge letter. When issuing a charge letter, FNS provides a significant amount of substantial information to a retail food store in a clear and concise manner. As explained above, a firm is provided with data identifying exactly which transactions are violations of SNAP regulations or are suspicious, the basis for FNS' determination that those transactions are violations of SNAP regulations or are suspicious, and when those transactions occurred. Finally, the charge letter explains a firm's opportunity to respond to the charges by presenting evidence or a rational explanation for those transactions, should it choose to do so.

FNS carefully considers a firm's response to the charge letter before issuing a notice of determination. Firms that ultimately receive an adverse determination are afforded extensive procedural protections through administrative and judicial review. Such firms may file a request for administrative appeal within 10 days of the date of delivery of the notice of determination.

If the agency determination is upheld in administrative review, FNS issues a final administrative determination informing the firm that the adverse action will take effect 30 days from the date of delivery of the notice—unless the firm has been charged with a serious offense warranting permanent disqualification such as trafficking, in which case the permanent disqualification is already in effect as required by statute. The firm is also advised in the final administrative determination that it has 30 days to avail itself of the judicial review process by filing a complaint against the United States in Federal court.

### Releasing Records

A few commenters suggested that FNS could address the issue of lengthy delays in administrative decision-making by simply providing all of the records related to the charges leveled

against a firm in the charge letter itself, when responding to the FOIA request, or during administrative review proceedings. As noted above, FNS already provides extensive data and details regarding suspected violations in the administrative process.

The FOIA (5 U.S.C. 552) provides the public the right to request access to records from a Federal agency. Federal agencies are required to disclose any agency records requested under the FOIA unless they fall under one of nine exemptions which protect interests such as personal privacy, national security, and law enforcement. FNS exercises caution and due diligence when deciding whether to release a record in response to a FOIA request. For example, 5 U.S.C. 552(b)(7)(E) protects from disclosure information which "would disclose techniques and procedures for law enforcement investigations or prosecutions, or that would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. . . ." Under this exemption, FNS does not disclose information that would publicly reveal methods used in analyzing data or in conducting an on-site investigation, as such information would make it possible for a retail food store to modify its activity in the future to avoid detection. Failing to protect this information from disclosure under FOIA would jeopardize FNS' ability to identify and investigate firms that are violating program rules.

The release of agency records of such a sensitive nature under administrative review proceedings would likewise jeopardize the agency's ability to investigate firms. However, if, after the agency's findings and ruling, the firm still takes issue with FNS' determination, judicial review is an available option. Under the discovery process at judicial review, some of these records may be released; however, these records are typically released under a protective order that protects the information from public view. Such a protective order is not an option available through the administrative review process or FOIA.

In some instances, when a firm is charged with violations, the firm requests the SNAP sales of individual stores that are similar to its store. FNS protects individual retail food store SNAP sales amounts (*i.e.*, SNAP redemptions) from disclosure under FOIA exemption 4 (5 U.S.C. 552(b)(4)), in accordance with a recent Supreme Court decision and subsequently issued Department of Justice guidance, both

detailed below. This FOIA exemption protects from disclosure "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential."

### Government

A decision by the Supreme Court on June 24, 2019, in *Food Marketing Institute v. Argus Leader*,<sup>1</sup> 139 S. Ct. 2356 (2019), addressed this exemption and the meaning of "confidential." The Court held that, where commercial or financial information is treated as private by its owner and provided to the Government under an assurance of privacy, the information is considered "confidential" within the meaning of FOIA exemption 4. *Id.* at 2366.

Following the Supreme Court decision, the Department of Justice (DOJ) issued guidance<sup>2</sup> to USDA that the agency will follow when processing FOIA requests for SNAP data of this nature. The first step will be for the agency to determine whether the information requested is customarily kept private or closely-held by the submitter of the information. If yes, the second step is to determine whether the agency provided an express or implied assurance of confidentiality when the information was shared with the Government. If so, the information is confidential under exemption 4. This information, and other information provided to the agency by firms, may also fall under FOIA exemptions 3 and 6. These exemptions permit withholding of information prohibited from disclosure by a Federal statute and when the disclosure would constitute a clearly unwarranted invasion of personal privacy, respectively.

Because the Supreme Court has held that individual store data submitted to the agency is protected by Exemption 4, the agency may not release such data in response to a FOIA request. *See id.* at 2363 (noting that such data is provided by individual stores to USDA under a regulatory provision promising confidentiality and therefore is not subject to disclosure under Exemption 4).

One commenter suggested revamping FNS' current process of utilizing Administrative Review Officers (AROs) and replacing them with Administrative Law Judges (ALJs), with the reasoning that ALJs have considerably more authority to convene evidentiary hearings and discovery proceedings.

<sup>1</sup> The Food Marketing Institute is a trade group representing grocery retailers, many of whom accept SNAP benefits, which argued store-level redemption data should be considered confidential.

<sup>2</sup> Exemption 4 after the Supreme Court's Ruling in *Food Marketing Institute v. Argus Leader Media*.

Such an organizational change within the Department of Agriculture is not germane to this rulemaking as it is outside the scope of what was proposed and has no bearing on the processing of FOIA requests and appeals. As noted, discovery is a process that is already available to firms that remain aggrieved by an agency administrative action and choose to pursue judicial review.

Some commenters expressed concern that providing full access to records only during discovery proceedings at the judicial review stage is not a financially viable option for small retail food stores that are unlikely to pursue court proceedings. Congress recognized the need for a robust administrative due process when retailers are charged with program violations, which provides for stores of any size to present evidence if they disagree with the agency's determination. In most cases, retailers are allowed to continue accepting SNAP benefits until after the final administrative determination is rendered, and multiple opportunities for retailers to rebut charges and administratively appeal agency determinations are provided by statute and regulation. The statute is clear, however, that when it comes to serious offenses warranting permanent disqualification, the disqualification must go into effect on the date of receipt of the notice of disqualification 7 U.S.C. 2023(a)(18). The FNS administrative due process is aligned with the FNA, and this rule ensures that the agency is in full compliance with its statutory mandate to expeditiously remove stores that have committed serious violations from the Program.

#### **Using FOIA To Delay FNS' Administrative Actions**

Some commenters expressed concern with the alleged lack of support provided in the NPRM regarding FNS' statement that attorneys for some firms submit extensive and complex FOIA requests and appeals, and repeatedly request information that has been consistently denied when requested through FOIA. Commenters questioned FNS' concerns that the seeming intention of the attorneys was delaying FNS' final determination to disqualify or impose a civil money penalty against the respective firm.

As is evident in agency FOIA logs,<sup>3</sup> a small cadre of attorneys regularly request FOIA information regarding SNAP firms. These attorneys often submit standard requests for information on behalf of one firm,

receive a response from FNS protecting particular information under FOIA exemptions, and subsequently and repeatedly send equivalent requests on behalf of other firms. By law, the agency is obligated to respond to each of these FOIA requests individually. Under current practice, the agency delays the respective administrative action while responding to each of the FOIA requests. In many instances, these attorneys go on to file appeals for firm after firm seeking the release of information that was previously denied under FOIA (*e.g.*, a request for the name of an undercover investigator or confidential informant), or information that is of a completely different nature than the original request. These requests cause unnecessary delays in issuing a determination notice to the firm, as is evidenced by the data that follows.

From Fiscal Year (FY) 2015 to FY 2018, FNS issued close to 12,000 charge letters. Firms that did not file a FOIA request after receiving a charge letter had their notice of determination issued, on average, approximately six weeks later. The 1,550 firms that did file a FOIA request after receiving a charge letter were able to redeem benefits for an average of eight weeks before the agency could respond to the FOIA request. Of those, the 902 firms that then appealed the agency's FOIA response, however, were able to redeem benefits for an average of eighty weeks before final action could be taken on their respective cases.

This final rule will improve program integrity and reduce final action timeframes significantly by preventing a FOIA request and appeal from delaying administrative actions and allowing the agency to take timely action against firms that have been determined to have committed Program violations. This rule does not affect the right of firms charged with program violations to request information from FNS through FOIA and utilize the information provided by the agency in their case.

#### **Mitigating Impact on the Populations Served by Small Retail Food Stores Who May Be Impacted by This Rule**

A few commenters expressed a general concern about the impact that removing a retail food store from the Program may have on the population served by that particular store. SNAP regulations provide for a retail food store to pay a civil monetary penalty (CMP) in lieu of a time-limited or 'term' disqualification sanction when the agency determines that sanctioning the firm by removing it from the Program would cause hardship to participants. The charge letter describes this option

and also informs the retailer of the CMP amount it would have to pay if determined to be eligible.

A hardship CMP generally may not be imposed in lieu of a permanent disqualification, such as for trafficking benefits. However, in certain circumstances described in 7 CFR 278.6(i), it is possible for a trafficking CMP to be imposed in these cases. For example, if the firm timely submits to FNS substantial evidence that demonstrates that the firm had established and implemented an effective compliance policy and program to prevent violations, a CMP, as opposed to permanent disqualification, may be warranted.

FNS understands the impact that removing an authorized retail food store for program violations, even temporarily, may have on SNAP participants. FNS provides ample consideration to SNAP participants' ability to access and purchase an adequate variety of food items at other SNAP-authorized retail food stores in an area when making administrative decisions. Firms impacted by this final rule will be afforded all of the appropriate considerations described here.

#### **Summary**

As outlined in the rule, FNS will not delay administrative actions based on the receipt of FOIA requests. In cases where a firm submits a FOIA request, FNS will consider the firm's official response to the charge letter while simultaneously processing the firm's FOIA request. On completing the review of the firm's official response to the charges, FNS will issue a notice of determination. A firm may then submit additional information in support of its position to FNS or the court as part of its due process rights under administrative appeal or judicial review, including information provided by FNS' response to a FOIA request.

If a firm receives an adverse notice of determination for the most egregious violations, such as trafficking, the permanent disqualification sanction shall go into effect on the firm's receipt of the notice of determination per statute and regulation. In fiscal year 2018, of the 1,555 firms permanently disqualified, 1,552 were determined to have trafficked in SNAP benefits, two (2) falsified information, and one (1) was determined to have committed a third-strike violation warranting permanent disqualification.

Except for firms disqualified from SNAP because they were disqualified from the Special Supplemental Nutrition Program for Women, Infants,

<sup>3</sup> FNS FOIA logs: <https://www.fns.usda.gov/foia/electronic-reading-room>.

and Children (WIC), which are not subject to administrative review by SNAP, firms will retain their right to administrative and judicial review of the determination made, in accordance with 7 CFR part 279. If a firm receives an adverse notice of determination for non-permanent disqualification violations, the sanctions outlined in the notice will be implemented once the firm has exhausted all due process proceedings. Firms determined to have committed offenses that warrant permanent disqualification will be permanently disqualified from the Program on delivery of the notice of determination. Through this final rule a retail food store's submission of a FOIA request or appeal would have no impact on when the agency takes administrative action. To clarify that a FOIA request or FOIA appeal is not a response to a letter of charges or a request for administrative review of the notice of determination, and to ensure that any request or appeal for records under the FOIA does not delay the effective date of the administrative determination, FNS is amending language at 7 CFR 278.6(p), 279.4(c), and 279.6(b). Removing retail food stores from the Program at the point FNS has determined, based on the evidence and a review of a firm's charge letter response (if provided), that a store engaged in a serious offense warranting permanent disqualification such as trafficking, is aligned with the FNA and helps ensure that the Program is conducted with integrity. Firms sanctioned for less serious, non-permanent disqualification violations will continue participating in SNAP, pending the outcome of any due process proceedings.

#### Procedural Matters

##### Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been determined to be significant. Accordingly, the rule has been reviewed by the Office of Management and Budget, in conformance with Executive Order 12866.

##### Executive Order 13771

This final rule is considered neither an E.O. 13771 regulatory action nor an E.O. 13771 deregulatory action because it results in no more than *de minimis* costs.

##### Regulatory Impact Analysis

A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more in any one year). USDA does not anticipate this final rule is likely to have an economic impact of \$100 million or more in any one year, and therefore, does not meet the definition of "economically significant" under Executive Order 12866. The changes in this final rule are not anticipated to have any impacts on SNAP participation or benefit issuance; any costs or savings will be as the result of changes that impact retailers who are subject to sanctions as a result of failure to comply with the Food and Nutrition Act of 2008, as amended.

##### Economic Analysis of Processing FOIA Requests and Appeals Separately From Administrative Actions Against SNAP Retailers

###### Overview of the Rule

The rule separates the process of disqualifying or imposing fines on retailers from the process of responding to Freedom of Information Act (FOIA) requests or appeals made by retailers.

Under current regulations, the process is as follows:

- FNS issues a charge letter to a retailer suspected of violating program rules. The letter describes the transactions that led to the charges and the possible sanctions that may be imposed as a result. Sanctions are not actually imposed at this point.
- The retailer has 10 days to respond to the charge letter.
- FNS examines evidence, including any response from the retailer, to determine whether the retailer violated program rules. If FNS determines that the retailer has violated program rules, FNS issues a notice of determination to the retailer, including a sanction if applicable.
  - For retailers determined to have committed violations warranting permanent disqualification, including trafficking, the sanction takes effect on receipt of the notice of determination.
  - For non-permanent violations, the firm may be temporarily disqualified and/or pay a fine. These sanctions take effect 10 days from receipt of the notice of determination, unless a timely request for an administrative review is filed.

- The notice also informs retailers that they have 10 days to request administrative review. If the case involves a permanent disqualification, the retailer will be permanently disqualified on receiving the initial notice of determination and remain so during the administrative review. If a retailer files such a request in a non-trafficking case, the sanctions are held in abeyance while the review is performed. Retailers have the opportunity to provide additional information in support of their position in administrative review.

- FNS then makes a final determination based on the administrative review. If the retailer was permanently disqualified on receiving the original notice of determination and remained as such during administrative review, the permanent disqualification remains in effect if the final determination sustains the original determination. If the final determination is that the retailer committed non-permanent violations, sanctions go into effect 30 days after the final determination.

- Retailers who disagree with FNS' final determination may then file a complaint against the United States to obtain judicial review within 30 days. Retailers may submit new information to the reviewing court.

Retailers considered for disqualification or imposition of a fine, like any citizen or company, may submit FOIA requests. Under current practice, when a FOIA request is submitted, FNS' determination to disqualify or impose a fine against the firm is delayed until the agency has responded to the FOIA. Retailers may also appeal the agency's FOIA response; again, under current practice, the determination is delayed until the appeal is resolved. As noted elsewhere in the rule, some firms have used the FOIA and FOIA appeals process to stall the imposition of sanctions. For example, a lawyer who has handled multiple FOIA requests asks for the exact same information (such as the name of the investigator) that has been denied repeatedly in previous requests. As a result, current practice has resulted in a delay in taking administrative actions against retailers for SNAP violations. Although the timeframe for making a determination is about 1.4 months when no FOIA request is made, that timeframe is extended, sometimes for 2 years or longer, when a FOIA/FOIA appeal is requested.

Under the final rule, retailers will no longer be able to use the FOIA process to delay FNS's administrative actions for SNAP violations. FNS will no longer

delay the determination until after the FOIA request is processed. In instances where violations warrant permanent disqualification, the permanent disqualification will go into effect immediately on issuance of the notice of determination. This is in keeping with Congressional intent as specified at 7 U.S.C. 2023(a)(18). FOIA appeals will continue to be handled separately and in parallel with administrative due process remedies that retailers may pursue.

As a result of this change, firms found to have committed program violations, such as trafficking SNAP benefits, will be removed from the Program on a timelier basis. Firms that are determined to have committed program violations may avail themselves of administrative review and subsequent judicial review; sanctions for non-permanent violations would be held in abeyance during these additional proceedings as under current practice.

#### Expected Impacts

In general, this final rule is expected to result in earlier implementation of sanctions against firms that violate program rules. As noted previously, there are no anticipated impacts on

SNAP participation or on SNAP benefit issuance. Between FY 2015 and FY 2018, 1,550 retailers that were charged with a violation submitted a FOIA request, and more than half (902) submitted a FOIA appeal.<sup>4</sup> During the time spent processing the FOIA request, which averaged two months, these retailers redeemed a total of more than \$44.25 million in SNAP. In addition, firms that submitted FOIA appeals continued to redeem SNAP benefits, on average, for another 20 months, and redeemed over \$222.45 million over the four-year period. In total, more than \$266.70 million was redeemed by stores charged with violations during the time spent processing FOIA requests and appeals.

Under this final rule, these retailers would not be able to use the FOIA process to delay final adjudication and thereby continue redeeming benefits. This loss of revenue caused by speedier disqualifications, and the subsequent inability to accept SNAP benefits, may result in some of these firms going out of business because of their violations.

Between FY 2015 and FY 2018, 272 retailers that were charged with non-permanent violations submitted a FOIA request. For these retailers, sanctions

ranged from fines to term disqualification (temporary for a period of 6 months or more). Under this final rule, those firms would now see their sanctions implemented sooner than under current practice. However, because of the small number of retailers involved, the annual impact of imposing the sanctions earlier will be minor. There will be no permanent dollar loss of benefits for these retailers as the sanctions themselves are unchanged. These changes may also result in fewer retailers submitting FOIA requests/appeals as a delaying tactic, which will reduce the amount of time the agency devotes to responding to these requests. As is the case under current rules, SNAP participants will be able to redeem their benefits at other authorized retailers. When a firm's non-permanent disqualification would cause a hardship to SNAP households because of limited food access, FNS may impose a fine in lieu of the non-permanent disqualification. Therefore, there is minimal impact on SNAP participants and the overall economy. There also is no impact on State agencies, as oversight of retailer operations is a Federal function.

TABLE 1—FY 2015–FY 2018 FOIA AND BENEFIT REDEMPTION DATA FOR FIRMS ISSUED CHARGE LETTERS

Charge letter group and FY	FOIA requests	FOIA appeals	Dollars between FOIA requests and agency response	Dollars between FOIA appeals and agency response
<b>FY15:</b>				
Permanent Disqualification .....	222	105	\$10,961,362	\$42,000,992
Non-Permanent Disqualification .....	30	8	3,313,239	3,005,438
<b>FY16:</b>				
Permanent Disqualification .....	288	175	8,283,318	62,570,560
Non-permanent Disqualification .....	40	18	2,162,874	6,371,363
<b>FY17:</b>				
Permanent Disqualification .....	349	211	10,062,273	47,128,737
Non-permanent Disqualification .....	92	38	1,001,022	6,853,157
<b>FY 18:</b>				
Permanent Disqualification .....	419	289	6,136,318	46,114,839
Non-permanent Disqualification .....	110	58	2,334,029	8,401,981
<b>Sub-Totals:</b>				
Permanent Disqualification .....	1,278	780	35,443,271	197,815,128
Non-permanent Disqualification .....	272	122	8,811,164	24,631,939
<b>Totals (Permanent and Non-permanent Disqualification) .....</b>	<b>1,550</b>	<b>902</b>	<b>44,254,435</b>	<b>222,447,067</b>
<b>Total \$ redeemed during FOIA Actions (Permanent Disqualification) .....</b>				<b>233,258,399</b>
<b>Total \$ redeemed during FOIA Actions (Non-permanent Disqualification) .....</b>				<b>33,443,103</b>
<b>Total \$ redeemed during FOIA Actions (Permanent and Non-permanent Disqualification) .....</b>				<b>266,701,502</b>

Source: USDA administrative data.

<sup>4</sup> USDA administrative data.

### Alternatives

As discussed in the preamble of this rule, several commenters suggested alternative approaches to specific rule provisions. One such suggested alternative was that FNS provide all of the records related to the charges leveled against a firm in the charge letter, in order to reduce the delay in decision making resulting from FOIA requests and appeals. The agency is not adopting this suggestion for the following reasons. First, as described in the preamble, the agency believes that the charge letter already provides extensive information regarding the basis of the charges. Second, certain information is protected from disclosure under Federal law, including information that would reveal methods used in analyzing data or in conducting an on-site investigation, and therefore it would not be appropriate to include in the charge letter.

The agency also considered allowing retailers determined to have committed a program violation that warranted non-permanent disqualification to hold the determination in abeyance pending the outcome of the FOIA response, but not

any subsequent FOIA appeal. However, allowing firms that have been disqualified to remain on the Program pending outcome of the initial FOIA response would negate the purpose of this rule, which is to separate FNS' administrative action from the FOIA process. As previously stated, firms found to have violated program rules will continue to be afforded their full due process opportunities for administrative and judicial proceedings. As such, FNS is not adopting this alternative.

No consideration was given in allowing retailers determined to have committed the most egregious violations, such as trafficking, to continue to participate in SNAP, as doing so would not only negate the purpose of this rule, but negatively impact program integrity, add costs associated as provided in the aforementioned Economic Analysis, and not conform with Congressional intent to remove egregious violators expeditiously. The processing of FOIA requests and appeals during the administrative and judicial review process will now have no impact on

when the agency can take administrative action.

### Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. Pursuant to that review, it has been certified that this rule would not have a significant impact on a substantial number of small entities.

This rule regulates all SNAP-authorized retailers, not just those stores that are likely to fall under the Small Business Administration gross sales threshold to qualify as a small business for Federal Government programs. Small retailers (defined as small or medium-sized grocery stores, convenience stores, combination stores, specialty stores, and other retailers, but not supermarkets, super stores, or large groceries) represent 82 percent of all SNAP retailers. However, among these small retailers, SNAP redemptions accounted for less than one percent of all their retail sales in 2018.

TABLE 2—RETAIL REVENUE AND REDEMPTIONS FOR SMALL SNAP-AUTHORIZED RETAILERS, BY RETAILER TYPE IN 2018

Retailer type	Number of stores	Average retail sales	Average redemption amount	Percent of sales from redemptions
Small Grocery .....	11,331	\$349,672	\$60,512	17.3
Medium Grocery .....	8,788	991,028	317,308	13.6
Convenience Store .....	115,456	\$3,636,610	\$28,294	0.8
Combination Retailer .....	58,785	14,456,598	56,660	0.4
Specialty Store .....	7,792	2,987,973	82,791	2.8
Other Retailer .....	8,181	4,250,786	12,217	0.3
Overall Average .....	210,333	6,236,404	43,791	0.7

While all SNAP-authorized retailers are covered by this rule, the number of small businesses directly affected by this rule is expected to be small. This final rule only impacts those retail food stores that are charged with program violations, such as trafficking of benefits, and that submit FOIA actions to challenge penalties. Between 2015 and 2018, 7,235 firms were charged with trafficking; 7,230 were small retailers. Another 3,697 were charged with other violations; 3,663 were small retailers. During this four-year period, 1,550 of these firms submitted FOIA requests, averaging 388 per year, less than one-fifth of a percent of all SNAP-authorized retailers that are classified as small.

These firms had average annual redemptions of \$170,000 and average annual revenue of \$516,000, so their

SNAP redemptions represented about a third of total revenue. Under this rule, retailers will experience a loss of revenue once the disqualification determination goes into effect. Revenue loss may result from lost SNAP sales as well as from reduced sales of items that, while not eligible for purchase using SNAP funds, were typically purchased in the same transaction using another tender type. USDA does not have data necessary to quantify the impact of this rule on revenue resulting from reduced non-SNAP purchases, only the impact on revenue resulting from lost SNAP purchases. While this impact would be significant for those affected, the number of affected retailers is not substantial: In an average year only 0.18

percent<sup>5</sup> of all SNAP-authorized small retailers submit FOIA requests after being charged with trafficking or another violation.

FNS also considered if the revenue lost from disqualification was large enough for the firm to exit the Program, and related economic impact. Of the 2,982 small firms temporarily disqualified between 2015 and 2018, FNS estimates that approximately 215 firms in an average year did not return to the Program. This represents .1 percent of all SNAP-authorized small retailers impacted for the period. For firms that are permanently disqualified, the intent is for the firms to remain off of the Program, so FNS has little data to indicate whether those stores remain in

<sup>5</sup> Calculated as 388 stores submitting FOIA requests in an average year divided by 210,333 small authorized SNAP retailers.

business after being removed from SNAP. However, in about one-third of these cases (representing 0.2 percent of authorized small retailers), firms were authorized to participate in SNAP under new ownership at the same location for

this time period, which may be indicative that the penalized stores went out of business, but cannot be tied directly to the firm's permanent disqualification from SNAP. Because the number of stores is quite small, and

because this rule is expected to result in penalties being applied sooner (but not expected to change the determination or penalty), FNS estimates that regardless of length of disqualification, the overall economic impact would be minimal.

TABLE 3—FIRMS CHARGED WITH VIOLATIONS, ANNUAL AVERAGE 2015–2018

Submitting FOIA requests .....	388
Average no. months Between FOIA Request and Agency Response .....	2
Average Redemption between FOIA Request & Agency Response .....	\$28,629
Average Annual Redemption, Firms Submitted FOIA Request .....	\$171,773
Average Annual Revenue, Firms Submitted FOIA Request .....	\$515,855
Redemptions as a Percentage of Revenue .....	33.3%
Submitting FOIA Appeals .....	225
Average no. months Between FOIA Request and Agency Response .....	20
Average Redemption between FOIA Request & Agency Response .....	\$234,215
Average Annual Redemption, Firms Submitted FOIA Appeal .....	\$140,529
Average Annual Revenue, Firms Submitted FOIA Appeal .....	\$515,844
Redemptions as a Percentage of Revenue .....	27.2%

In its comments on the NPRM, the Small Business Administration's Office of Advocacy (the "Office") raised additional concerns on behalf of small businesses. First, the Office is concerned about the basis of the determination of whether a retailer has violated SNAP rules. Some retailers have argued that they need to submit FOIA requests to better understand the charges against them. However, as described in more detail in the preamble, the charge letter details the suspected violations, the sanction(s) that may be imposed for these violations, and the steps that the firm must take if it wishes to challenge the charges. By regulation, FNS may issue a charge letter on the basis of evidence from an on-site investigation, inconsistent redemption data, or evidence obtained through electronic benefit system (EBT) transactions. EBT transactions are reviewed in relation to the store operation (including, but not limited to, size, inventory, sales practices). Firms are told in writing exactly which transactions are suspicious, when these transactions occurred, and why they are suspicious. Firms are given the opportunity to respond to these charges, and FNS carefully considers their official response before issuing a notice of determination. Even then, firms can file requests for administrative appeal and, if the determination is upheld, file a complaint through the judicial process.

The Office's final concern is that small businesses will be forced to expend large sums of money seeking judicial review of the FNS determination. As noted above and elsewhere in the preamble of this rule, retailers will continue to be afforded their full due process opportunities for

administrative and judicial proceedings as under current statute and regulations. Therefore, the Department does not believe that the proposed changes to the FOIA process will result in a change in the number of firms pursuing a judicial review.

#### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local or tribal governments, in the aggregate, or the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

This final rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and tribal governments or the private sector of \$100 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

#### Executive Order 12372

The Supplemental Nutrition Assistance Program is listed in the Catalog of Federal Domestic Assistance under Number 10.551 and is not subject to Executive Order 12372, which

requires intergovernmental consultation with State and local officials.

#### Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under Section 6(b)(2)(B) of Executive Order 13132.

The Department has considered the impact of this rule on State and local governments and has determined that this rule does not have federalism implications. Therefore, under section 6(b) of the Executive Order, a federalism summary is not required.

#### Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full and timely implementation. This rule is not intended to have retroactive effects unless so specified in the Effective Dates paragraph of the final rule. Before any judicial challenge to the provisions of the final rule, all applicable administrative procedures must be exhausted.

#### Civil Rights Impact Analysis

FNS has reviewed the final rule, in accordance with the Department Regulation 4300–004, "Civil Rights Impact Analysis" to identify and



address any major civil rights impacts the final rule might have on minorities, women, and persons with disabilities. The promulgation of this final rule may impact a small percentage of small retail food stores and the SNAP customers who usually shop at those stores, however the mitigation strategies outlined in the CRIA provide consideration to SNAP recipients' ability to access and purchase an adequate variety of food items at other SNAP-authorized retail food stores in an area when making administrative decisions. Further, FNS will monitor incoming complaints from retailers and SNAP recipients to determine any civil rights impact on protected groups due to the final rule.

#### Executive Order 13175

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

FNS holds regularly scheduled consultations with Tribal Organizations to discuss regulations. On August 15, 2018, February 14, 2019, and October 24, 2019, FNS consulted with Tribal communities regarding the rule. These sessions provided Tribal communities the opportunity to address any concerns related to the rule. Tribal communities identified no issues regarding the rule. FNS is unaware of any current Tribal laws that could conflict with the final rule.

#### Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; 5 CFR 1320) requires the Office of Management and Budget (OMB) to approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This rule does not contain information collection requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

#### E-Government Act Compliance

The Department is committed to complying with the E-Government Act, to promote the use of the internet and

other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

#### List of Subjects

##### 7 CFR Part 278

Participation of Retail Food Stores, Wholesale Food Concerns and Insured Financial Institutions.

##### 7 CFR Part 279

Administrative and Judicial Review—Food Retailers and Food Wholesalers.

Accordingly, 7 CFR parts 278 and 279 are amended as follows:

#### PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND INSURED FINANCIAL INSTITUTIONS

- 1. The authority citation for part 278 continues to read as follows:

**Authority:** 7 U.S.C. 2011–2036.

- 2. In § 278.6, add paragraph (p) to read as follows:

##### § 278.6 Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications.

\* \* \* \* \*

(p) *Freedom of Information Act (FOIA) requests and appeals.* A FOIA request or appeal for records shall not delay or prohibit FNS from making a determination regarding disqualification or penalty against a firm under paragraphs (c) and (d) of this section, or delay the effective date of a disqualification or penalty listed in paragraph (e) of this section.

#### PART 279—ADMINISTRATIVE AND JUDICIAL REVIEW—FOOD RETAILERS AND FOOD WHOLESALERS

- 3. The authority citation for part 279 continues to read as follows:

**Authority:** 7 U.S.C. 2011–2036.

- 4. In § 279.4, amend paragraph (c) by:
  - a. Adding a new second sentence; and
  - b. Removing the words “However, no” in the last sentence and adding in its place the word “No”.

The addition reads as follows:

##### § 279.4 Action upon receipt of a request for review.

\* \* \* \* \*

(c) \* \* \* Additionally, FNS may not grant extensions of time or hold the administrative review process in abeyance solely on the basis of a pending FOIA request or appeal. \* \* \*

- 5. In § 279.6, amend paragraph (b) by:

- a. Adding a new second sentence; and
- b. Removing the words “However, no” in the last sentence and adding in its place the word “No”.

The addition reads as follows:

##### § 279.6 Legal advice and extensions of time.

\* \* \* \* \*

(b) \* \* \* Additionally, the designated reviewer may not grant extensions of time or hold the administrative review process in abeyance solely on the basis of a pending FOIA request or appeal.

\* \* \*

**Stephen L. Censky,**

*Deputy Secretary, Food, Nutrition, and Consumer Services.*

[FR Doc. 2020–18701 Filed 8–25–20; 8:45 am]

BILLING CODE 3410–30–P

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

##### 24 CFR Part 570

[Docket No. FR–6208–N–01]

#### Section 108 Loan Guarantee Program: Announcement of Fee To Cover Credit Subsidy Costs for FY 2021

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Announcement of fee.

**SUMMARY:** This document announces the fee that HUD will collect from borrowers of loans guaranteed under HUD's Section 108 Loan Guarantee Program (Section 108 Program) to offset the credit subsidy costs of the guaranteed loans pursuant to commitments awarded in Fiscal Year 2021.

**DATES:** *Applicability date:* October 1, 2020.

**FOR FURTHER INFORMATION CONTACT:** Paul Webster, Director, Financial Management Division, Office of Block Grant Assistance, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, 451 7th Street SW, Room 7282, Washington, DC 20410; telephone number 202–402–4563 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339. FAX inquiries (but not comments) may be sent to Mr. Webster at 202–708–1798 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2015 (division K of Pub. L. 113–235, approved December 16, 2014) (2015 Appropriations Act) provided that “the Secretary shall collect fees from borrowers . . . to result in a credit subsidy cost of zero for guaranteeing” Section 108 loans. Identical language was continued or included in the Department’s continuing resolutions and appropriations acts authorizing HUD to issue Section 108 loan guarantees during Fiscal Years (FYs) 2016, 2017, 2018, 2019, and 2020. The Fiscal Year (FY) 2021 HUD appropriations bill under consideration<sup>1</sup> also has identical language regarding the fees and credit subsidy cost for the Section 108 Program.

On November 3, 2015, HUD published a final rule (80 FR 67626) that amended the Section 108 Program regulations at 24 CFR part 570 to establish additional procedures, including procedures for announcing the amount of the fee each fiscal year when HUD is required to offset the credit subsidy costs to the Federal Government to guarantee Section 108 loans. For FYs 2016, 2017, 2018, 2019, and 2020 HUD published notifications to set the fees.<sup>2</sup>

## II. FY 2021 Fee: 2.15 Percent of the Principal Amount of the Loan

This document sets the fee for Section 108 loan disbursements under loan guarantee commitments awarded for FY 2021 at 2.15 percent of the principal amount of the loan. HUD will collect this fee from borrowers of loans guaranteed under the Section 108 Program to offset the credit subsidy costs of the guaranteed loans pursuant to commitments awarded in FY 2021. For this fee announcement, HUD is not changing the underlying assumptions or creating new considerations for borrowers. The calculation of the FY 2021 fee uses a similar calculation model as the FY 2016, FY 2017, FY 2018, FY 2019, and FY 2020 fee notifications, but incorporates updated information regarding the composition of the Section 108 portfolio and the timing of the estimated future cash flows for defaults and recoveries. The calculation of the fee is also affected by

the discount rates required to be used by HUD when calculating the present value of the future cash flows as part of the Federal budget process.

As described in 24 CFR 570.712(b), HUD’s credit subsidy calculation is based on the amount required to reduce the credit subsidy cost to the Federal Government associated with making a Section 108 loan guarantee to the amount established by applicable appropriation acts. As a result, HUD’s credit subsidy cost calculations incorporated assumptions based on: (1) Data on default frequency for municipal debt where such debt is comparable to loans in the Section 108 loan portfolio; (2) data on recovery rates on collateral security for comparable municipal debt; (3) the expected composition of the Section 108 portfolio by end users of the guaranteed loan funds (e.g., third-party borrowers and public entities); and (4) other factors that HUD determined were relevant to this calculation (e.g., assumptions as to loan disbursement and repayment patterns).

Taking these factors into consideration, HUD determined that the fee for disbursements made under loan guarantee commitments awarded in FY 2021 will be 2.15 percent, which will be applied only at the time of loan disbursements. Note that future notifications may provide for a combination of upfront and periodic fees for loan guarantee commitments awarded in future fiscal years but, if so, will provide the public an opportunity to comment if appropriate under 24 CFR 570.712(b)(2).

The expected cost of a Section 108 loan guarantee is difficult to estimate using historical program data because there have been no defaults in the history of the program that required HUD to invoke its full faith and credit guarantee or use the credit subsidy reserved each year for future losses.<sup>3</sup> This is due to a variety of factors, including the availability of Community Development Block Grant (CDBG) funds as security for HUD’s guarantee as provided in 24 CFR 570.705(b). As authorized by Section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5308), borrowers may make payments on Section 108 loans using CDBG grant funds. Borrowers may also make Section 108 loan payments from other anticipated sources but continue to have CDBG funds available should they

encounter shortfalls in the anticipated repayment source. Despite the program’s history of no defaults, Federal credit budgeting principles require that the availability of CDBG funds to repay the guaranteed loans cannot be assumed in the development of the credit subsidy cost estimate (see 80 FR 67629, November 3, 2015). Thus, the estimate must incorporate the risk that alternative sources are used to repay the guaranteed loan in lieu of CDBG funds, and that those sources may be insufficient. Based on the rate that CDBG funds are used annually for repayment of loan guarantees, HUD’s calculation of the credit subsidy cost must acknowledge the possibility of future defaults if those CDBG funds were not available. The fee of 2.15 percent of the principal amount of the loan will offset the expected cost to the Federal Government due to default, financing costs, and other relevant factors. To arrive at this measure, HUD analyzed data on comparable municipal debt over an extended period. The estimated rate is based on the default and recovery rates for general purpose municipal debt and industrial development bonds. The cumulative default rates on industrial development bonds were higher than the default rates on general purpose municipal debt during the period from which the data were taken. These two subsectors of municipal debt were chosen because their purposes and loan terms most closely resemble those of Section 108 guaranteed loans.

In this regard, Section 108 guaranteed loans can be broken down into two categories: (1) Loans that finance public infrastructure and activities to support subsidized housing (other than financing new construction) and (2) other development projects (e.g., retail, commercial, industrial). The 2.15 percent fee was derived by weighting the default and recovery data for general purpose municipal debt and the data for industrial development bonds according to the expected composition of the Section 108 portfolio by corresponding project type. Based on the dollar amount of Section 108 loan guarantee commitments awarded from FY 2015 through FY 2019, HUD expects that 44 percent of the Section 108 portfolio will be similar to general purpose municipal debt and 56 percent of the portfolio will be similar to industrial development bonds. In setting the fee at 2.15 percent of the principal amount of the guaranteed loan, HUD expects that the amount generated will fully offset the cost to the Federal Government associated with making guarantee

<sup>1</sup> Title II of H.R. 7616, 116th Cong., under the heading “Community Development Loan Guarantees Program Account.”

<sup>2</sup> 80 FR 67634 (November 3, 2015), 81 FR 68297 (October 4, 2016), 82 FR 44518 (September 25, 2017), 83 FR 50257 (October 5, 2018), and 84 FR 35299 (July 23, 2019) respectively.

<sup>3</sup> U.S. Department of Housing and Urban Development, *Study of HUD’s Section 108 Loan Guarantee Program*, (prepared by Econometrica, Inc. and The Urban Institute), September 2012, at pages 73–74. This fact has not changed since the issuance of this report.

commitments awarded in FY 2021. Note that the FY 2021 fee represents a 0.15 percent increase from the FY 2020 fee of 2.00 percent.

This document establishes a rate that does not constitute a development decision that affects the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this document is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Dated: August 18, 2020.

**John Gibbs,**

*Acting Assistant Secretary for Community Planning and Development.*

[FR Doc. 2020–18392 Filed 8–25–20; 8:45 am]

**BILLING CODE P**

## **PENSION BENEFIT GUARANTY CORPORATION**

### **29 CFR Part 4908**

**RIN 1212–AB49**

#### **Procedures for PBGC Guidance Documents**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** This final rule sets forth the Pension Benefit Guaranty Corporation's (PBGC) procedures for issuing PBGC guidance documents as required by an Executive order entitled "Promoting the Rule of Law Through Improved Agency Guidance Documents."

**DATES:** *Effective date:* This final rule is effective on August 26, 2020.

**FOR FURTHER INFORMATION CONTACT:** Hilary Duke (*duke.hilary@pbgc.gov*), Assistant General Counsel for Regulatory Affairs, Office of the General Counsel, 1200 K Street NW, Washington, DC 20005–4026, 202–229–3839; or Karen B. Levin (*levin.karen@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026, 202–229–3559. TTY users may call the Federal Relay service toll-free at 800–877–8339 and ask to be connected to 202–229–3559.

#### **SUPPLEMENTARY INFORMATION:**

##### **Executive Summary**

##### *Purpose and Authority*

This final rule adds to the Code of Federal Regulations a new 29 CFR part 4908, which implements the requirements of Executive Order (E.O.)

13891, "Promoting the Rule of Law Through Improved Agency Guidance Documents."<sup>1</sup> E.O. 13891 requires agencies to set forth processes and procedures for issuing guidance documents.

PBGC's legal authority for this action comes from section 4002(b)(3) of the Employee Retirement Income Security Act of 1974 (ERISA), which authorizes PBGC to issue regulations to carry out the purposes of title IV of ERISA, and from E.O. 13891.

##### *Major Provisions*

The final rule provides the following procedures:

- Guidance documents will include specified information, including a statement that a guidance document does not bind the public, and will be posted at [www.pbgc.gov/guidance](http://www.pbgc.gov/guidance).
- Significant guidance documents will have a 30-day public notice and comment period, be reviewed by the Office of Management and Budget (OMB), and meet other requirements.
- Members of the public may request withdrawal or modification of a guidance document.

##### *Background*

On October 9, 2019, the President issued Executive Order (E.O.) 13891, "Promoting the Rule of Law Through Improved Agency Guidance Documents." Central principles of E.O. 13891 are that the American public should only be subject to binding rules imposed through duly enacted statutes or through regulations that are lawfully promulgated, and that Americans should have fair notice of any such obligations. Section 4 of the order directs that, "[w]ithin 300 days of the date on which [the Office of Management and Budget] issues an implementing memorandum under section 6 of this order, each agency shall, consistent with applicable law, finalize regulations, or amend existing regulations as necessary, to set forth processes and procedures for issuing guidance documents." On October 31, 2019, OMB issued OMB Memorandum M–20–02,<sup>2</sup> which provides agencies with instructions for complying with the requirements of E.O. 13891 ("OMB Memo M–20–02").

In accordance with OMB's direction, PBGC is amending title 29, chapter 40, subchapter L of the Code of Federal

Regulations by adding a new part 4908, "Procedures for PBGC Guidance Documents." These new regulations codify the requirements set forth in section 4 of E.O. 13891.

##### *Compliance With Rulemaking Guidelines*

This is a rule of "agency organization, procedure or practice" and is limited to "agency organization, management, or personnel matters." The final rule provides PBGC's procedures for issuing guidance documents. Accordingly, this rule is exempt from notice and public comment requirements under 5 U.S.C. 553(b) and the requirements of Executive Order 12866 and Executive Order 13771.<sup>3</sup> Because no general notice of proposed rulemaking is required, the Regulatory Flexibility Act does not apply to this rule. See 5 U.S.C. 601(2), 603, 605.

PBGC finds good cause exists for making the additions set forth in this final rule effective less than 30 days after publication because the additions support PBGC's procedures for issuing guidance documents in compliance with the deadlines in E.O. 13891 and OMB Memo M–20–02.

##### **List of Subjects in 29 CFR Part 4908**

Administrative practice and procedure, Employee benefit plans, Organization and functions (Government agencies), Pension insurance.

For the reasons given above, PBGC amends title 29, chapter 40, subchapter L of the Code of Federal Regulations by adding part 4908 to read as follows:

#### **PART 4908—PROCEDURES FOR PBGC GUIDANCE DOCUMENTS**

##### *Sec.*

- 4908.1 Purpose and scope.
- 4908.2 Definitions.
- 4908.3 Procedures for issuing guidance documents.
- 4908.4 Procedures for issuing significant guidance documents.
- 4908.5 Public access to guidance documents.
- 4908.6 Procedures for requests from the public to withdraw or modify a guidance document.

**Authority:** 29 U.S.C. 1302(b)(3), E.O. 13891, 84 FR 55235, 3 CFR, 2019 Comp., p. 371.

##### **§ 4908.1 Purpose and scope.**

This part provides general procedures that apply to PBGC guidance documents.

<sup>3</sup> See section 3(d)(3) of Executive Order 12866 and section 4(b) of Executive Order 13771.

<sup>1</sup> 84 FR 55235 (October 9, 2019).

<sup>2</sup> M–20–02, Guidance Implementing Executive Order 13891, Titled "Promoting the Rule of Law Through Improved Agency Guidance Documents" (October 31, 2019) available at <https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf>.

**§ 4908.2 Definitions.**

In addition to the terminology in part 4001 of this chapter, as used in this part—*Director* means the Director of PBGC.

*Guidance document* means an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation, but does not include, for example, the following:

(1) Statements of specific applicability, including advisory or legal opinions directed to particular parties about circumstance-specific questions (e.g., case or investigatory letters responding to complaints, warning letters), notices regarding particular locations or facilities (e.g., guidance pertaining to the use, operation, or control of a Government facility or property), and correspondence with individual persons or entities (e.g., congressional correspondence or notices of violation), except documents ostensibly directed to a particular party but designed to guide the conduct of the broader regulated public;

(2) Statements that do not set forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation, including speeches and individual presentations, editorials, media interviews, press materials, or congressional testimony that do not set forth for the first time a new regulatory policy;

(3) Rules promulgated pursuant to notice and comment under section 553 of title 5, United States Code, or similar statutory provisions;

(4) Rules exempt from rulemaking requirements under section 553(a) of title 5, United States Code;

(5) Rules of agency organization, procedure, or practice;

(6) Decisions of agency adjudications under section 554 of title 5, United States Code, or similar statutory provisions;

(7) Internal guidance directed to the issuing agency or other agencies that is not intended to have substantial future effect on the behavior of regulated parties or the public;

(8) Legal briefs, other court filings, or positions taken in litigation or enforcement actions;

(9) Contract solicitations or awards; or

(10) Internal executive branch legal advice or legal advisory opinions addressed to executive branch officials.

*OMB* means the Office of Management and Budget.

*Significant guidance document* means a guidance document that may reasonably be anticipated to:

(1) Lead to an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.

**§ 4908.3 Procedures for issuing guidance documents.**

(a) *Required elements of guidance documents.* A PBGC guidance document will comply with all relevant statutes and regulations and include, at a minimum, all of the following:

(1) The term "guidance;"

(2) Identification of PBGC as the agency issuing the guidance document;

(3) Identification of the activities to which and the persons to whom the guidance document applies;

(4) The date of issuance;

(5) A statement if it is a revision to a previously issued guidance document and, if so, identification of the guidance document that it replaces;

(6) The title of the guidance document and a unique identification number;

(7) The citation to the statutory provision or regulation (in Code of Federal Regulations format) to which it applies or which it interprets;

(8) A short summary of the subject matter covered in the guidance document at the top of the document; and

(9) A prominent statement that "The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or PBGC policies." PBGC will modify the statement to reflect when the guidance document is authorized by law or incorporated into a contract.

(b) *Plain English requirement.* Guidance documents will be written in plain English and avoid using mandatory language, such as "shall," "must," "required," or "requirement," unless the language is describing an established statutory or regulatory

requirement, is authorized by law, or is addressed to PBGC staff and will not foreclose PBGC's consideration of positions advanced by affected private parties.

(c) *Review and clearance procedures*—(1) *In general.* All guidance documents proposed to be issued will be reviewed and cleared by the General Counsel, in consultation with the Chief Policy Officer and the Director.

(2) *OMB significance determination.* Before issuance, unless waived by OMB, PBGC will send a guidance document to OMB for it to determine whether the guidance document is a significant guidance document within the meaning of Executive Order 13891. Requests for waivers will be approved by the Director.

(3) *Nonsignificant guidance documents.* If OMB determines that a guidance document is not a significant guidance document, PBGC will post the guidance document at [www.pbgc.gov/guidance](http://www.pbgc.gov/guidance).

(4) *Significant guidance documents.* If OMB determines that a guidance document is a significant guidance document, PBGC will follow the procedures in § 4908.4.

**§ 4908.4 Procedures for issuing significant guidance documents.**

(a) *Procedures for proposed significant guidance documents*—(1) *In general.* If OMB determines that a guidance document is a significant guidance document within the meaning of Executive Order 13891, the procedures in this section will apply unless otherwise agreed to by OMB and PBGC. PBGC will demonstrate to OMB how a significant guidance document complies with Executive Orders 12866, 13563, 13609, 13771, and 13777, as applicable.

(2) *OMB review.* If requested by OMB, PBGC will submit a proposed significant guidance document to OMB for review under Executive Order 12866 before issuance.

(3) *Notice and comment.* Except when PBGC for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest (and incorporates the finding and a brief statement of reasons for the finding into the significant guidance document), PBGC will—

(i) Publish a notice in the **Federal Register** announcing the availability of a proposed significant guidance document and a 30-day public notice and comment period; and

(ii) Provide an electronic method for the public to comment on the significant guidance document.

(b) *Procedures for final significant guidance documents*—(1) *In general*. PBGC will submit a final significant guidance document to OMB for review under Executive Order 12866 before issuance.

(2) *Response to comments*. PBGC will provide a public response to comments on a proposed significant guidance document either in a final significant guidance document or in a companion document that addresses major concerns raised in comments.

(c) *Issuance*. All proposed and final significant guidance documents will be signed by the Director on a non-delegable basis and posted at [www.pbgc.gov/guidance](http://www.pbgc.gov/guidance).

#### **§ 4908.5 Public access to guidance documents.**

(a) *In general*. PBGC will maintain on PBGC's public website a single, searchable, indexed database that contains, or links to PBGC's guidance documents at [www.pbgc.gov/guidance](http://www.pbgc.gov/guidance). Any guidance document posted on the database is final unless it is a proposed significant guidance document under § 4908.4.

(b) *Nonbinding effect*. The database described in paragraph (a) of this section will state that guidance documents do not have the force and effect of law, unless expressly authorized by statute or incorporated into a contract and are not meant to bind the public in any way.

(c) *Rescinded guidance documents*. All guidance documents that are not posted on the database described in paragraph (a) of this section are considered rescinded. PBGC will not cite, use, or rely upon any guidance document that is rescinded, except to establish historical facts.

(d) *Withdrawal*. When PBGC withdraws a guidance document, PBGC will remove the hyperlink to the guidance document from the database and will clearly identify the guidance document as withdrawn. The name, title, unique identifier, and date of withdrawal will be listed on the database for at least one year after withdrawal.

#### **§ 4908.6 Procedures for requests from the public to withdraw or modify a guidance document.**

(a) *In general*. A member of the public may petition PBGC in writing for withdrawal or modification of an existing guidance document issued by PBGC.

(b) *Petition instructions*. PBGC will provide clear instructions on its website regarding how to submit petitions for withdrawal or modification of any

guidance document at [www.pbgc.gov/guidance](http://www.pbgc.gov/guidance). These instructions will include an email address, a physical mailing address for hard copy petitions, and the office responsible for coordinating responses to petitions. PBGC will clearly identify the General Counsel as the designated PBGC official to whom petitions should be directed at [GuidanceComments@pbgc.gov](mailto:GuidanceComments@pbgc.gov).

(c) *Contents of petition*. A petition must—

(1) Specify the petitioner's name and a means for PBGC to contact the petitioner, such as an email address or a mailing address;

(2) Identify the guidance document that is the subject of the petition;

(3) Present any information and arguments in support of the request for withdrawal or modification of the guidance document, including any specific circumstances in which the guidance document is incorrect or obsolete; and

(4) Be directed to the designated PBGC official.

(d) *Response*. In response to a petition, the General Counsel, in consultation with the Chief Policy Officer and the Director, will determine whether to withdraw, modify, or retain a guidance document. PBGC will respond to a petition promptly, but no later than 90 days after receiving the petition. If PBGC withdraws a guidance document in response to a petition, PBGC will follow the procedures in § 4908.5(d) and post a response to the petition on its guidance database.

Issued in Washington, DC.

**Gordon Hartogensis,**  
Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2020-17952 Filed 8-25-20; 8:45 am]

BILLING CODE 7709-02-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 180**

**[EPA-HQ-OPP-2018-0038; FRL-10011-32]**

#### **Inpyrfluxam; Pesticide Tolerances**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of inpyrfluxam in or on multiple commodities that are identified and discussed later in this document. Valent requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective August 26, 2020. Objections and

requests for hearings must be received on or before October 26, 2020, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the

#### **SUPPLEMENTARY INFORMATION).**

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2018-0038, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805.

Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Marietta Echeverria, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: [RDfRNtices@epa.gov](mailto:RDfRNtices@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. General Information**

###### **A. Does this action apply to me?**

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

###### **B. How can I get electronic access to other related information?**

You may access a frequently updated electronic version of EPA's tolerance

regulations at 40 CFR part 180 through the Government Publishing Office's e-CFR site at [http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl).

### *C. How can I file an objection or hearing request?*

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2018-0038 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before October 26, 2020. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2018-0038, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- **Mail:** OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- **Hand Delivery:** To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

## **II. Summary of Petitioned-For Tolerance**

In the **Federal Register** of March 18, 2019 (84 FR 9735) (FRL-9989-90), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7F8634) by Valent U.S.A. LLC, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596. The petition requested that 40 CFR part 180 be

amended by establishing tolerances for residues of the fungicide inpyrfluxam, S-2399, in or on apple at 0.01 parts per million (ppm); apple, wet pomace at 0.03 ppm; beet, sugar, dried pulp at 0.05 ppm; beet, sugar, molasses at 0.03 ppm; beet, sugar, roots at 0.01 ppm; corn, field, forage at 0.02 ppm; corn, field, grain at 0.01 ppm; corn, field, stover at 0.02 ppm; corn, pop, grain at 0.01 ppm; corn, pop, stover at 0.02 ppm; corn, sweet, kernel plus cob with husks removed at 0.01 ppm; peanut at 0.01 ppm; peanut, hay at 2.0 ppm; rice, grain at 0.01 ppm; rice, bran at 0.02 ppm; rice, hulls at 0.05 ppm; and soybean, seed at 0.01 ppm. That document referenced a summary of the petition prepared by Valent U.S.A. LLC, the registrant, which is available in the docket, <http://www.regulations.gov>. There were no comments received in response to the notice of filing.

In the **Federal Register** of May 8, 2020 (85 FR 27346) (FRL-10008-38), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7F8634) by Valent U.S.A. LLC, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of the fungicide inpyrfluxam, S-2399, in or on corn, sweet, stover at 0.02 ppm; corn, sweet, forage at 0.02 ppm; cattle, fat at 0.01 ppm; cattle, meat at 0.01 ppm; cattle, meat byproducts at 0.01 ppm; eggs at 0.01 ppm; goat, fat at 0.01 ppm; goat, meat at 0.01 ppm; goat, meat byproducts at 0.01 ppm; hog, fat at 0.01 ppm; hog, meat at 0.01 ppm; hog, meat byproducts at 0.01 ppm; horse, fat at 0.01 ppm; horse, meat at 0.01 ppm; horse, meat byproducts at 0.01 ppm; milk at 0.01 ppm; poultry, fat at 0.01 ppm; poultry, meat at 0.01 ppm; poultry, meat byproducts at 0.01 ppm; sheep, fat at 0.01 ppm; sheep, meat at 0.01 ppm; and sheep, meat byproducts at 0.01 ppm. That document referenced a summary of the petition prepared by Valent U.S.A. LLC, the registrant, which is available in the docket, <http://www.regulations.gov>. A comment was received in response to the notice of filing. EPA's response to this comment is discussed in Unit IV.C.

Based upon review of the data supporting the petition, EPA is establishing several tolerances at different levels than were requested. The reasons for these changes are explained in Unit IV.D.

## **III. Aggregate Risk Assessment and Determination of Safety**

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the

legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for inpyrfluxam including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with inpyrfluxam follows.

### *A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The target organs of inpyrfluxam are the liver and thyroid (rats, mice, and dogs). Liver effects include increased liver weight, elevated liver enzymes, and increased incidences of diffuse hepatocellular hypertrophy. Thyroid effects include increased incidences of follicular cell hypertrophy.

Decreased motor activity was seen in the acute neurotoxicity study in female rats, but no gross or microscopic morphological changes occurred. There was no neurotoxicity observed in the subchronic neurotoxicity in rats or in any other studies. No dermal hazard was identified in the 28-day dermal toxicity study.

There was evidence of quantitative sensitivity in the developmental toxicity study in rats. In this study, decreased fetal weights were observed at a dose

lower than the presence of maternal toxicity. No quantitative susceptibility was observed in the developmental toxicity study in rabbits and the 2-generation reproduction study in rats. In the 2-generation reproduction study in rats, no reproductive effects were observed, and offspring toxicity (decreased pup weights in F1 and F2 generations) was observed in the presence (same dosage) of parental toxicity (thyroid weight changes and histopathology in P and F1 generations).

In the chronic toxicity/carcinogenicity studies in rats and mice, there was no evidence of carcinogenicity. The mutagenicity battery was negative. Inpyrfluxam is classified as “Not likely to be carcinogenic to humans.”

Specific information on the studies received and the nature of the adverse effects caused by inpyrfluxam as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at <http://www.regulations.gov> in the document titled “Inpyrfluxam. Human Health Risk Assessment for the Section 3 Registration Action of the New Active Ingredient, Inpyrfluxam, for Foliar Application on Apple, Peanut, Rice, Soybean, and Sugar Beet; Soil Application on Corn; and Seed Treatment Uses on Canola, Cereal Grains, Legume Vegetables, and Sugar Beet” (hereinafter “Inpyrfluxam Human Health Risk Assessment”) on pages 42–46 in docket ID number EPA–HQ–OPP–2018–0038.

#### B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide’s toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency

estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see <http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticide>.

A summary of the toxicological endpoints for inpyrfluxam used for human risk assessment can be found in the Inpyrfluxam Human Health Risk Assessment.

#### C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to inpyrfluxam, EPA considered exposure under the petitioned-for tolerances. EPA assessed dietary exposures from inpyrfluxam in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for inpyrfluxam. In estimating acute dietary exposure, EPA used 2003–2008 food consumption information from the United States Department of Agriculture’s (USDA) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/ WWEIA). As to residue levels in food, the acute analysis assumed tolerance-level residues or higher by combining residues of the parent and residues of the applicable metabolites of concern, adjusting for molecular weight. In addition, the assessment used 100 percent crop treated (PCT) estimates and default processing factors.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used 2003–2008 food consumption data from the USDA’s NHANES/ WWEIA. As to residue levels in food, the chronic analysis assumed tolerance-level residues or higher by combining residues of the parent and residues of the applicable metabolites of concern, adjusting for molecular weight. In addition, the assessment used 100 PCT estimates and default processing factors.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that inpyrfluxam does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and PCT information.* EPA did not use

anticipated residue or PCT information for assessing the inpyrfluxam exposures.

2. *Dietary exposure from drinking water.* The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for inpyrfluxam in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of inpyrfluxam. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at <http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide>.

Using the Pesticide Root Zone Model-Variable Volume Water Model (PRZM–VWWM) and Pesticide Root Zone Model-Groundwater (PRZM–GW) models, EPA calculated the estimated drinking water concentrations (EDWCs) of inpyrfluxam for acute and chronic exposures in surface and ground water. EPA used the modeled EDWCs directly in the dietary exposure model to account for the contribution of inpyrfluxam residues in drinking water as follows: 104.5 ppm was used in the acute assessment and 69.5 ppb was used in the chronic assessment.

3. *From non-dietary exposure.* The term “residential exposure” is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Inpyrfluxam is not being proposed to be registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider “available information” concerning the cumulative effects of a particular pesticide’s residues and “other substances that have a common mechanism of toxicity.”

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to inpyrfluxam and any other substances, and inpyrfluxam does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that inpyrfluxam has a common mechanism of toxicity with other substances. For information regarding EPA’s efforts to determine which chemicals have a common



mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at <http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides>.

#### *D. Safety Factor for Infants and Children*

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* In the developmental toxicity study in rats, decreased fetal weights were observed at a dose lower than the presence of maternal toxicity. No quantitative susceptibility was observed in the developmental toxicity study in rabbits and the 2-generation reproduction study in rats. In the 2-generation reproduction study in rats, no reproductive effects were observed, and offspring toxicity (decreased pup weights in F1 and F2 generations) was observed in the presence (same dosage) of parental toxicity (thyroid weight changes and histopathology in P and F1 generations).

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

- i. The toxicity database for inpyrfluxam is complete.
- ii. Decreased motor activity was observed in females in the acute neurotoxicity study; however, no neurotoxicity was observed in the subchronic neurotoxicity or in any other studies in the inpyrfluxam database; therefore, a developmental neurotoxicity study was not needed with the absence of neuropathology.
- iii. In the 2-generation reproduction study in rats, no reproductive effects were observed, and offspring toxicity (decreased pup weights in F1 and F2 generations) was observed in the presence of parental toxicity (thyroid weight changes and histopathology in P and F1 generations). Although there

were developmental effects (decreased fetal weights) in the developmental study in rats in the absence of maternal toxicity, a clear NOAEL and LOAEL were identified, and the PODs selected for risk assessment purposes are protective of the developmental effects seen in the database.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and anticipated residues to account for the metabolites of concern. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to inpyrfluxam in drinking water. These assessments will not underestimate the exposure and risks posed by inpyrfluxam.

#### *E. Aggregate Risks and Determination of Safety*

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to inpyrfluxam will occupy 6.4% of the aPAD for all infants less than one year old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to inpyrfluxam from food and water will utilize 1.7% of the cPAD for children 1 to 2 years old, the population group receiving the greatest exposure. There are no residential uses for inpyrfluxam.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account short- and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Short- and intermediate-term adverse effects were identified; however, inpyrfluxam is not being proposed to be registered for any use patterns that would result in either short- or intermediate-term residential exposure. Short- and intermediate-term risk is assessed based on short- and

intermediate-term residential exposure plus chronic dietary exposure. Because there is no short- or intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess short-term risk), no further assessment of short- or intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating short- and intermediate-term risk for inpyrfluxam.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, inpyrfluxam is not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to inpyrfluxam residues.

#### **IV. Other Considerations**

##### *A. Analytical Enforcement Methodology*

The petitioner has proposed a multi-residue method (quick, easy, cheap, effective, rugged and safe; QuEChERS; Method No. VP-393940) for the determination of inpyrfluxam in plant commodities. For livestock commodities, adequate enforcement methodology using the high performance liquid chromatography with tandem mass detection (HPLC-MS/MS, or LC-MS/MS) is available for determination of residues of inpyrfluxam and its metabolites.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755-5350; telephone number: (410) 305-2905; email address: [residuemethods@epa.gov](mailto:residuemethods@epa.gov).

##### *B. International Residue Limits*

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to



which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established any MRLs for inpyrfluxam.

#### C. Response to Comments

One comment was received to the notice of filing that stated in part “ban use of valent inpyrfluxam [sic] on corn cattle meat and other sites.”

Although the Agency recognizes that some individuals believe that pesticides should be banned on agricultural crops, the existing legal framework provided by section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA) authorizes EPA to establish tolerances when it determines that the tolerance is safe. Upon consideration of the validity, completeness, and reliability of the available data as well as other factors the FFDCA requires EPA to consider, EPA has determined that these inpyrfluxam tolerances are safe. The commenter has provided no information supporting a contrary conclusion.

#### D. Revisions to Petitioned-For Tolerances

Some of the proposed commodity definitions for the tolerances being established are different than requested to be consistent with Agency nomenclature. EPA is not establishing a tolerance for residues in/on rice hulls as requested; it is not necessary as rice hulls are no longer considered a significant livestock feedstuff. Also, residues were less than the LOQ in the processed commodities at exaggerated rates; therefore, a tolerance for rice bran is not required. No separate tolerance is needed for apple, wet pomace since the residues on pomace will be adequately covered by the tolerance on “apple” due to a lack of concentration during processing. Similarly, no separate tolerances are needed for sugar beet molasses or sugar beet dried pulp since residues on those commodities will be adequately covered under “beet, sugar, roots.” Finally, EPA revised the tolerance value for “peanut, hay” from 2.0 ppm (as requested) to 2 ppm, to be consistent with OECD’s rounding class practices.

#### V. Conclusion

Therefore, tolerances are established for residues of inpyrfluxam, including its metabolites and degradates, in or on the following plant commodities: Apple at 0.01 ppm; beet, sugar, roots at 0.01 ppm; corn, field, forage at 0.02 ppm; corn, field, grain at 0.01 ppm; corn,

field, stover at 0.02 ppm; corn, pop, grain at 0.01 ppm; corn, pop, stover at 0.02 ppm; corn, sweet, kernel plus cob with husks removed at 0.01 ppm; corn, sweet, forage at 0.02 ppm; corn, sweet, stover at 0.02 ppm; peanut at 0.01 ppm; peanut, hay at 2 ppm; rice, grain at 0.01 ppm; and soybean, seed at 0.01 ppm.

Also, tolerances are established for residues of inpyrfluxam, including its metabolites and degradates, in or on the following livestock commodities: Cattle, fat at 0.01 ppm; cattle meat at 0.01 ppm; cattle, meat byproducts at 0.01 ppm; egg at 0.01 ppm; goat, fat at 0.01 ppm; goat, meat at 0.01 ppm; goat, meat byproducts at 0.01 ppm; hog, fat at 0.01 ppm; hog, meat at 0.01 ppm; hog, meat byproducts at 0.01 ppm; horse, fat at 0.01 ppm; horse, meat at 0.01 ppm; horse meat byproducts at 0.01 ppm; milk at 0.01 ppm; poultry, fat at 0.01 ppm; poultry, meat at 0.01 ppm; poultry, meat byproducts at 0.01 ppm; sheep, fat at 0.01 ppm; sheep, meat at 0.01 ppm; and sheep meat byproducts at 0.01 ppm.

#### VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled “Regulatory Planning and Review” (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), nor is it considered a regulatory action under Executive Order 13771, entitled “Reducing Regulations and Controlling Regulatory Costs” (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule,

the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

#### VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 11, 2020.

**Edward Messina,**

*Acting Director, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 180.712 to subpart C to read as follows:

**§ 180.712 Inpyrfluxam; tolerances for residues.**

(a) *General.* (1) Tolerances are established for residues of the fungicide inpyrfluxam, including its metabolites and degradates, in or on the commodities in Table 1 to this section. Compliance with the tolerance levels specified in Table 1 to this section is to be determined by measuring only inpyrfluxam (3-(difluoromethyl)-N-[(3*R*)-2,3-dihydro-1,1,3-trimethyl-1*H*-inden-4-yl]-1-methyl-1*H*-pyrazole-4-carboxamide), in or on the following commodities:

TABLE 1 TO § 180.712

Commodity	Parts per million
Apple .....	0.01
Beet, sugar, roots .....	0.01
Corn, field, forage .....	0.02
Corn, field, grain .....	0.01
Corn, field, stover .....	0.02
Corn, pop, grain .....	0.01
Corn, pop, stover .....	0.02
Corn, sweet, kernel plus cob with husks removed .....	0.01
Corn, sweet, forage .....	0.02
Corn, sweet, stover .....	0.02
Peanut .....	0.01
Peanut, hay .....	2
Rice, grain .....	0.01
Soybean, seed .....	0.01

(2) Tolerances are established for residues of inpyrfluxam, including its metabolites and degradates, in or on the commodities in Table 2 to this section. Compliance with the tolerance levels specified in Table 2 to this section is to be determined by measuring the free and conjugated forms of the sum of inpyrfluxam (3-(difluoromethyl)-N-[(3*R*)-2,3-dihydro-1,1,3-trimethyl-1*H*-inden-4-yl]-1-methyl-1*H*-pyrazole-4-carboxamide, and its metabolites 3-(difluoromethyl)-N-[1'-(hydroxymethyl)-(1'*S*,3'*R*)-1',3'-dimethyl-2',3'-dihydro-1'*H*-inden-4'-yl]-1-methyl-1*H*-pyrazole-4-carboxamide and 3-(difluoromethyl)-N-[1'-(hydroxymethyl)-(1'*R*,3'*S*)-1',3'-dimethyl-2',3'-dihydro-1'*H*-inden-4'-yl]-1-methyl-1*H*-pyrazole-4-carboxamid, calculated as the stoichiometric equivalent of inpyrfluxam, in or on the commodity:

TABLE 2 TO § 180.712

Commodity	Parts per million
Cattle, fat .....	0.01
Cattle, meat .....	0.01
Cattle, meat byproducts .....	0.01
Egg .....	0.01
Goat, fat .....	0.01
Goat, meat .....	0.01
Goat, meat byproducts .....	0.01
Hog, fat .....	0.01
Hog, meat .....	0.01
Hog, meat byproducts .....	0.01
Horse, fat .....	0.01
Horse, meat .....	0.01
Horse, meat byproducts .....	0.01
Milk .....	0.01
Poultry, fat .....	0.01
Poultry, meat .....	0.01
Poultry, meat byproducts .....	0.01
Sheep, fat .....	0.01
Sheep, meat .....	0.01
Sheep, meat byproducts .....	0.01

(b)–(d) [Reserved]

[FR Doc. 2020–18661 Filed 8–25–20; 8:45 am]

**BILLING CODE 6560–50–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****42 CFR Part 84**

[Docket No. CDC–2020–0036; NIOSH–335]

**RIN 0920–AA69**

**Approval Tests and Standards for Air-Purifying Particulate Respirators**

**AGENCY:** Centers for Disease Control and Prevention, HHS.

**ACTION:** Reopening of comment period.

**SUMMARY:** On April 14, 2020, the Department of Health and Human Services (HHS) published an interim final rule to update regulatory requirements by the Centers for Disease Control and Prevention's (CDC) National Institute for Occupational Safety and Health (NIOSH) to test and approve air-purifying particulate respirators for use in the ongoing public health emergency. Comments were to be received by August 12, 2020. This document announces a reopening of the comment period for an additional 30 days, to allow stakeholders and other interested parties additional time to respond.

**DATES:** The comment period for the interim final rule published April 14, 2020, at 85 FR 20598, is reopened. Written comments must be received by September 25, 2020.

**ADDRESSES:** You may submit written comments, identified by docket numbers CDC–2020–0036 and NIOSH–335, by either of the following two methods:

• *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

• *Mail:* National Institute for Occupational Safety and Health, NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226–1998.

*Instructions:* All information received in response to this document must include the agency name and docket number [CDC–2020–0036; NIOSH–335]. All relevant comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:**

Jeffrey Palcic, NIOSH National Personal Protective Technology Laboratory (NPPTL), Pittsburgh, PA, (412) 386–5247 (this is not a toll-free number).

Information requests can also be submitted by email to [NIOSHregs@cdc.gov](mailto:NIOSHregs@cdc.gov).

**SUPPLEMENTARY INFORMATION:** On April 14, 2020, at 85 FR 20598, HHS published an interim final rule adding parallel performance standards to existing regulatory requirements in 42 CFR part 84 for powered air-purifying particulate respirators (PAPRs). These new standards allow for the approval of respirators in a new class, PAPR100, that may be better suited to the needs of workers in the healthcare and public safety sectors. The rule also consolidated the technical standards for all types of air-purifying particulate respirators into a revised subpart K; standards pertaining to obsolete respirators designed for dust, fume, and mist; pesticide; and paint spray were removed from the regulation entirely. The comment period for this rule closed on August 12, 2020.

Prior to the close of the comment period, HHS received a request to extend the comment period. Because NIOSH values input from industry partners, HHS is reopening the public comment period for an additional 30 days. Accordingly, this document announces the reopening of the docket for this activity.

Dated: August 21, 2020.

**Alex M. Azar II,**

*Secretary, Department of Health and Human Services.*

[FR Doc. 2020–18747 Filed 8–24–20; 4:15 pm]

**BILLING CODE 4163–18–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

[CG Docket Nos. 13–24 and 03–123; FCC 19–11; FRS 16972]

### IP CTS Improvements and Program Management

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects the final rules portion of a **Federal Register** document published on March 8, 2019. That **Federal Register** document inadvertently removed paragraphs (a)(4)(i) through (iii) from section 64.611 of the Federal Communications Commission's rules for telecommunications relay services.

**DATES:** Effective on August 26, 2020.

**FOR FURTHER INFORMATION CONTACT:** Michael Scott, Consumer and Governmental Affairs Bureau, (202) 418–1264, or email [Michael.Scott@fcc.gov](mailto:Michael.Scott@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This document corrects the final rules document published at 84 FR 8457, March 8, 2019.

### List of Subjects in 47 CFR Part 64

Individuals with disabilities, Telecommunications, Telecommunications relay services, Federal Communications Commission.

**Marlene Dortch,**  
*Secretary, Office of the Secretary.*

### Final Rules

Accordingly, 47 CFR part 64 is corrected by making the following correcting amendments:

### PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

**Authority:** 47 U.S.C. 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 262, 403(b)(2)(B), (c), 616, 620, 1401–1473, unless otherwise noted; Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091.

■ 2. Amend § 64.611 by adding paragraphs (a)(4)(i), (ii), and (iii) to read as follows:

#### § 64.611 Internet-based TRS registration.

- (a) \* \* \*
- (4) \* \* \*

(i) Each VRS provider must obtain, from each new and existing registered internet-based TRS user, consent to

transmit the registered internet-based TRS user's information to the TRS User Registration Database. Prior to obtaining consent, the VRS provider must describe to the registered internet-based TRS user, using clear, easily understood language, the specific information being transmitted, that the information is being transmitted to the TRS User Registration Database to ensure proper administration of the TRS program, and that failure to provide consent will result in the registered internet-based TRS user being denied service. VRS providers must obtain and keep a record of affirmative acknowledgment by every registered internet-based TRS user of such consent.

(ii) VRS providers must, for existing registered internet-based TRS users, submit the information in paragraph (a)(3) of this section to the TRS User Registration Database within 60 days of notice from the Commission that the TRS User Registration Database is ready to accept such information. Calls from or to existing registered internet-based TRS users that have not had their information populated in the TRS User Registration Database within 60 days of notice from the Commission that the TRS User Registration Database is ready to accept such information shall not be compensable.

(iii) VRS providers must submit the information in paragraph (a)(4) of this section upon initiation of service for users registered after 60 days of notice from the Commission that the TRS User Registration Database is ready to accept such information.

\* \* \* \* \*

[FR Doc. 2020–17003 Filed 8–25–20; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 200227–0066; RTID 0648–XA415]

### Fisheries of the Exclusive Economic Zone Off Alaska; Blackspotted and Rougheye Rockfish in the Central Aleutian Islands and Western Aleutian Islands Districts of the Bering Sea and Aleutian Islands Management Area

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting retention of blackspotted and rougheye rockfish in the Central Aleutian Islands and Western Aleutian Islands districts (CAI/WAI) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 2020 blackspotted and rougheye rockfish total allowable catch (TAC) in the CAI/WAI of the BSAI has been reached.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), August 20, 2020, through 2400 hours, A.l.t., December 31, 2020.

#### FOR FURTHER INFORMATION CONTACT:

Steve Whitney, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2020 blackspotted and rougheye rockfish TAC in the CAI/WAI of the BSAI is 264 metric tons (mt) as established by the final 2020 and 2021 harvest specifications for groundfish in the BSAI (85 FR 13553, March 9, 2020). In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2020 blackspotted and rougheye rockfish TAC in the CAI/WAI of the BSAI has been reached. Therefore, NMFS is requiring that blackspotted and rougheye rockfish in the CAI/WAI of the BSAI be treated in the same manner as a prohibited species, as described under § 679.21(a), for the remainder of the year, except blackspotted and rougheye rockfish species in the CAI/WAI caught by catcher vessels using hook-and-line, pot, or jig gear as described in § 679.20(j).

#### Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion

and would delay the prohibited retention of blackspotted and roughey rockfish in the CAI/WAI of the BSAI. NMFS was unable to publish a notice providing time for public comment

because the most recent, relevant data only became available as of August 17, 2020.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 20, 2020.

**Jennifer M. Wallace,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2020–18687 Filed 8–20–20; 4:15 pm]

**BILLING CODE 3510–22–P**

# Proposed Rules

Federal Register

Vol. 85, No. 166

Wednesday, August 26, 2020

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF JUSTICE

### Executive Office for Immigration Review

#### 8 CFR Parts 1003 and 1240

[EOIR Docket No. 19–0022; A.G. Order No. 4800–2020]

RIN 1125–AA96

#### Appellate Procedures and Decisional Finality in Immigration Proceedings; Administrative Closure

**AGENCY:** Executive Office for Immigration Review, Department of Justice.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Justice (“Department”) proposes to amend the regulations of the Executive Office for Immigration Review (“EOIR”) regarding the handling of appeals to the Board of Immigration Appeals (“BIA” or “Board”). The Department proposes multiple changes to the processing of appeals to ensure the consistency, efficiency, and quality of its adjudications. The Department also proposes to amend the regulations to make clear that there is no freestanding authority of line immigration judges or BIA members to administratively close cases. Finally, the Department proposes to remove inapplicable or unnecessary provisions regarding the forwarding of the record of proceedings on appeal.

**DATES:** Written or electronic comments must be submitted on or before September 25, 2020. Written comments postmarked on or before that date will be considered timely. The electronic Federal Docket Management System will accept comments prior to midnight Eastern Time at the end of that day.

**ADDRESSES:** You may submit comments, identified by EOIR Docket No. 19–0022, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Lauren Alder Reid, Assistant Director, Office of Policy, Executive

Office for Immigration Review, 5107 Leesburg Pike, Suite 2616, Falls Church, VA 22041. To ensure proper handling, please reference EOIR Docket No. 19–0022 on your correspondence. This mailing address may be used for paper, disk, or CD–ROM submissions.

#### FOR FURTHER INFORMATION CONTACT:

Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2616, Falls Church, VA 22041, telephone (703) 305–0289 (not a toll-free call).

#### SUPPLEMENTARY INFORMATION:

##### I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this rule. EOIR also invites comments that relate to the economic, environmental, or federalism effects that might result from this rule. Comments must be submitted in English, or an English translation must be provided. To provide the most assistance to EOIR, comments should reference a specific portion of the rule; explain the reason for any recommended change; and include data, information, or authority that support the recommended change.

All comments submitted for this rulemaking should include the agency name and EOIR Docket No. 19–0022. Please note that all comments received are considered part of the public record and made available for public inspection at [www.regulations.gov](http://www.regulations.gov). Such information includes personally identifiable information (such as a person’s name, address, or any other data that might personally identify that individual) that the commenter voluntarily submits.

If you want to submit personally identifiable information as part of your comment, but do not want it to be posted online, you must include the phrase “PERSONALLY IDENTIFIABLE INFORMATION” in the first paragraph of your comment and precisely and prominently identify the information of which you seek redaction.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online, you must include the phrase “CONFIDENTIAL BUSINESS INFORMATION” in the first paragraph of your comment and precisely and

prominently identify the confidential business information of which you seek redaction. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on [www.regulations.gov](http://www.regulations.gov). Personally identifiable information and confidential business information provided as set forth above will be placed in the agency’s public docket file, but not posted online. To inspect the agency’s public docket file in person, you must make an appointment with agency counsel. Please see the **FOR FURTHER INFORMATION CONTACT** paragraph above for the agency counsel’s contact information specific to this rule.

##### II. Executive Summary

Under this rule, for most appeals from immigration judge decisions and from certain decisions of Department of Homeland Security (“DHS”) officers, the parties would have a standardized briefing schedule with the filing of simultaneous briefs within 21 days. The Department also proposes to set the period of time by which the BIA may extend the period for filing a brief at 14 days. Additionally, the Department proposes to revise the regulations regarding cases that require current identity, law enforcement, or security investigations or examinations in order to eliminate unnecessary remands to the immigration court for purposes of completing or updating identity, law enforcement, or security investigations or examinations and to standardize the authority of EOIR adjudicators to deem an application abandoned if an applicant fails to comply with the necessary requirements regarding identity, law enforcement, or security investigations or examinations.

Furthermore, the Department proposes to amend the regulations to clearly authorize the BIA to issue dispositive decisions, including decisions on voluntary departure, and to limit the BIA’s authority to consider new evidence on appeal or to grant motions to remand for consideration of new evidence, except in cases where there is new evidence or information obtained as the result of identity, law enforcement, or security investigations or examinations or where the new information raises a question of jurisdiction or removability. The

Department also proposes to clarify the limited situations in which the BIA may engage in factfinding on appeal, to make it clear that the BIA may affirm a decision based on any reason contained in the record, and to make clear that there is no “totality of the circumstances” standard of review. It also proposes to clarify that the Board may limit the purpose or scope of a remand when it divests jurisdiction to the immigration judge on remand. The Department proposes to amend the regulations to assure quality control and accuracy of Board decisions through an immigration judge certification process in limited circumstances.

The Department proposes to amend 8 CFR 1003.1(d)(1)(ii) and 1003.10(b) to make clear that those provisions—and similar provisions in 8 CFR part 1240—provide no freestanding authority for immigration judges or BIA members to administratively close immigration cases absent an express regulatory or settlement basis to do so. The Department also proposes to withdraw the Attorney General’s delegated authority to the BIA to certify cases to itself and the authority of the BIA and immigration judges to *sua sponte* reopen a case or reconsider a decision, except in limited circumstances evincing a need to correct typographical errors or defective service. The Department also proposes to allow the filing of motions to reopen notwithstanding existing time and number bars in limited circumstances implicating jurisdiction or removability, though such motions before the Board could be granted only by a three-member panel. The Department further proposes to clarify regulatory timeliness guidelines for appeals assigned to three-member panels of the BIA. Finally, the Department is proposing to add additional timeliness guidelines for the processing of appeals, provide for a further delegation of authority from the Attorney General to the EOIR Director (“Director”) regarding the efficient disposition of appeals, and delete inapplicable or unnecessary provisions regarding the forwarding of the record of proceedings on appeal.

A party to EOIR proceedings may appeal immigration judge decisions and certain DHS decisions, including administrative fines and visa petitions under section 204 of the Immigration and Nationality Act (“INA”), to the BIA. See 8 CFR 1003.1(b). Because the INA contains few details regarding the appeals process, EOIR’s regulations govern the specific procedural requirements for appeals to the BIA. See

generally 8 CFR part 1003, subpart A.<sup>1</sup> Over time, the Department has frequently reviewed the relevant regulations in order to address management challenges at the BIA and to ensure the efficient adjudication of immigration proceedings to best use EOIR’s resources. This proposed rule will further ensure that cases heard at the BIA are adjudicated in a consistent and timely manner.

The number of cases pending within EOIR has increased tremendously, particularly in recent years. EOIR had approximately 130,000 pending cases in 1998. At the end of Fiscal Year (“FY”) 2019, EOIR had approximately 1.08 million pending cases, up from approximately 430,000 pending at the end of FY 2014 and approximately 263,000 at the end of FY 2010. EOIR’s current pending caseload represents a more than 800 percent increase over the amount pending 21 years ago. See EOIR, *Adjudication Statistics: Pending Cases* (Apr. 15, 2020), <https://www.justice.gov/eoir/page/file/1242166/download>; EOIR, *Adjudication Statistics: New Cases and Total Completions* (Apr. 15, 2020), <https://www.justice.gov/eoir/page/file/1060841/download>.

With the increase in pending cases at the immigration courts, EOIR has recently begun to have a corresponding increase in the number of appeals of immigration judge decisions. In FY 2018, the number of such appeals increased to 39,096—a 70 percent increase over the previous high in the last five fiscal years. EOIR, *Adjudication Statistics: Case Appeals Filed, Completed, and Pending* (Oct. 23, 2019), <https://www.justice.gov/eoir/page/file/1198906/download>. In FY 2019, the number of such appeals increased to 54,092, a 38 percent increase from FY 2018 and a 250 percent increase from FY 2015. *Id.* The BIA ended FY 2019 with 65,201 pending appeals from immigration judge decisions, up from 12,677 at the end of FY 2017. *Id.*

Due to these significant increases, the Department believes it is necessary to again review the BIA’s regulations to reduce any unwarranted delays in the appeals process and to ensure the efficient use of BIA and EOIR resources.

<sup>1</sup> As the Supreme Court has recognized, “the BIA is simply a regulatory creature of the Attorney General, to which he has delegated much of his authority under the applicable statutes.” *INS v. Doherty*, 502 U.S. 314, 327 (1992). Although there is a reference to the BIA in section 101(a)(47)(B) of the INA, 8 U.S.C. 1101(a)(47)(B), that reference occurs only in the context of establishing the finality of an order of deportation or removal after the BIA has affirmed the order or the time allowed for appeal to the BIA has expired. It does not address the scope of the BIA’s authority or its procedures.

Additionally, the Department believes that it is necessary to provide the BIA with the appropriate tools to make final decisions wherever possible to reduce unnecessary and inefficient remands to the immigration courts, including remands solely for the completion of background checks or to allow a respondent to be granted voluntary departure. Remands to the immigration court delay case completion due to the amount of time it takes for the case to be placed back on the immigration courts’ already full dockets. Additionally, remands to the immigration court for issues that could be addressed by the BIA needlessly prolong case adjudications and take valuable time away from other cases before the immigration court, further straining the limited court resources.

Accordingly, the Department proposes to make seven changes to the BIA’s regulations regarding adjudicative and appellate procedures:

1. In all cases, shorten the time allowed for the BIA to grant an extension for a party to file an initial brief or a reply brief from 90 days to 14 days, while also allowing the Board to seek supplemental briefing if it believes such briefing would be beneficial;

2. Make all briefing for appeals of immigration judge decisions simultaneous;

3. End the BIA practice of remanding to the immigration court solely for the purpose of completing or updating identity, law enforcement, or security investigations or examinations or solely because an immigration judge did not provide required advisals regarding an application for voluntary departure;

4. Delegate clear authority to the BIA to issue orders of removal, termination or dismissal, and voluntary departure, and orders granting relief or protection as part of the process to adjudicate appeals;

5. Decrease the scope of motions to remand that the BIA may consider, make clear that the BIA cannot remand a case under a “totality of the circumstances” standard, clarify the limited situations in which the BIA may engage in factfinding on appeal, and make clear that the BIA may affirm a decision based on any valid reason supported by the record;

6. Clarify that the BIA may limit or qualify the scope of a remand while simultaneously divesting itself of jurisdiction over the case; and

7. Allow immigration judges to certify BIA remand or reopening decisions for further review in limited circumstances as part of a quality assurance process.

Overall, the Department believes these proposed changes will enable

EOIR to better address the growing number of cases and related challenges, as well as to ensure that all cases are treated in an expeditious manner consistent with due process. These changes also build on ongoing reviews of all procedures to ensure that cases are completed in a timely manner consistent with due process. Each change is discussed in turn below. The Department intends for these changes to be effective for appeals filed with the BIA on or after the effective date of the final rule.

The Department also proposes to clarify the scope of 8 CFR 1003.1(d)(1)(ii) and 1003.10(b) regarding the extent of authority of immigration judges and Board members to take action “appropriate and necessary for the disposition” of the cases they adjudicate. The broad sweep of this language has caused confusion regarding the limits of immigration judges and Board members’ authority to take action in handling cases before them, especially regarding administrative closure. The proposed rule seeks to address that confusion by making it clear that neither the Board nor immigration judges have authority under 8 CFR 1003.1(d)(1)(ii) and 1003.10(b) to administratively close a case—either unilaterally or with the consent of the parties—unless authorized by regulation or a judicial settlement and that neither 8 CFR 1003.1(d)(1)(ii) nor 1003.10(b) provides such authorization.

The Department also proposes to make changes to the BIA to improve its internal consistency in decision-making and its adjudicatory efficiency. First, the proposed rule will improve consistency in BIA decision-making by withdrawing, with limited exceptions, the delegation of the Attorney General’s authority for the BIA to *sua sponte* reopen or reconsider decisions<sup>2</sup> and for the Board to certify cases to itself on its own motion. These procedures have few standards to ensure consistent application. Without clear standards, and without the possibility of further review in most cases, they are subject to inconsistent application and even abuse. Moreover, they severely undermine the importance of finality in immigration proceedings by encouraging the filing of motions in contravention of the strict time and number limits imposed by statute. *See, e.g., Doherty*, 502 U.S. at 323 (“Motions for reopening of immigration

proceedings are disfavored for the same reasons as are petitions for rehearing and motions for a new trial on the basis of newly discovered evidence. This is especially true in a deportation proceeding, where, as a general matter, every delay works to the advantage of the deportable alien who wishes merely to remain in the United States.” (citation omitted)); *INS v. Abudu*, 485 U.S. 94, 107 (1988) (“The reasons why motions to reopen are disfavored in deportation proceedings are comparable to those that apply to petitions for rehearing, and to motions for new trials on the basis of newly discovered evidence. There is a strong public interest in bringing litigation to a close as promptly as is consistent with the interest in giving the adversaries a fair opportunity to develop and present their respective cases.” (footnotes omitted)); *see also Matter of Beckford*, 22 I&N Dec. 1216, 1221 (BIA 2000) (en banc) (“When Congress directed the Attorney General to promulgate regulations limiting motions to reopen and reconsider, it clearly sought to (1) limit the ability of aliens to file motions, and (2) bring finality to immigration proceedings.”). To ensure that there remains a mechanism for reopening the proceedings of individuals with colorable claims to United States citizenship or nationality and aliens whose removability is vitiated in full prior to the execution of the removal order, the Department also proposes to amend the regulations to allow the filing of a motion to reopen, notwithstanding the time and number bars, in certain circumstances. Those circumstances are when an alien claims that an intervening change in law or fact renders the alien no longer removable and the alien has exercised diligence in pursuing his or her motion, or when an individual claims, supported by evidence, that he or she is a United States citizen or national.

Second, the proposed rule will ensure that cases at the Board are timely adjudicated. Current regulations place an emphasis on timeliness only near the end of the adjudication process, which ignores the potential for significant delays much earlier in the process. Moreover, the regulations do not provide for an overall timeliness goal, and the BIA’s accounting of the timeliness of adjudications is confusing and potentially misleading. *See Office of the Inspector Gen., Dep’t of Justice, Management of Immigration Cases and Appeals by the Executive Office for Immigration Review* 41 (Oct. 2012), <https://oig.justice.gov/reports/2012/e1301.pdf> (“DOJ OIG Report”) (“EOIR’s

performance reporting does not reflect appeal delays and underreports actual processing time, which undermines EOIR’s ability to identify problems and take corrective actions.”). Consequently, this proposed rule ensures that all phases of the appeal process are subject to timeliness goals, provides appropriate accounting of the timely disposition of appeals, and provides a mechanism to ensure that no one appeal remains pending for too long without a regulatory or operational basis for the delay.

### III. Background

#### A. Appellate Briefings

A party to EOIR proceedings may appeal immigration judge decisions and certain DHS decisions, including administrative fines and visa petitions under section 204 of the INA, to the BIA. *See* 8 CFR 1003.1(b). Because the INA contains few details regarding the appeals process, EOIR’s regulations govern the specific procedural requirements for appeals to the BIA. *See generally* 8 CFR part 1003, subpart A. Over time, the Department has reviewed the relevant regulations in order to find the proper balance between the length of time allowed for the appeal process and the efficient adjudication of immigration proceedings that best uses EOIR’s resources.

EOIR first implemented regulations regarding the time for filing a BIA appeal in 1987. *Aliens and Nationality; Rules of Procedure for Proceedings Before Immigration Judges*, 52 FR 2931 (Jan. 29, 1987).<sup>3</sup> EOIR’s regulations did not historically specify a particular time period for the BIA briefing schedule, though EOIR did set briefing schedules in certain situations by policy. *See, e.g., EOIR, Operating Policies and Procedures Memorandum 84–1: Case Priorities and Processing* 1 (Feb. 6, 1984), <https://www.justice.gov/sites/default/files/eoir/legacy/2001/09/26/84-1.pdf> (“Because of the necessity of forwarding bond appeals expeditiously to the Board, I [Chief Immigration Judge William R. Robie] suggest that requests for briefing time wherever possible be

<sup>3</sup> The 1987 final rule amended 8 CFR 3.36, in addition to other regulatory sections. In 1992, 8 CFR 3.36 was redesignated as 8 CFR 3.38. Executive Office for Immigration Review; Rules of Procedures, 57 FR 11568 (Apr. 6, 1992). Following the creation of DHS in 2003 after the passage of the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, EOIR’s regulations were moved from chapter I of Title 8 of the Code of Federal Regulations to chapter V. *Aliens and Nationality; Homeland Security; Reorganization of Regulations*, 68 FR 9824 (Feb. 28, 2003). Accordingly, section 3.38 of the EOIR regulations was transferred to 8 CFR 1003.38. *Id.* at 9830.

<sup>2</sup> For the same reasons, and to maintain a parallel level of authority, the proposed rule also withdraws the delegation of the Attorney General’s authority for immigration judges to reopen or reconsider decisions *sua sponte*, subject to a limited exception.

limited to a *maximum* of ten days per party.” (underlining in original)).

Congress subsequently instructed the Department to implement regulations regarding, among other things, “the time period for the filing of administrative appeals . . . and for the filing of appellate and reply briefs.” Immigration Act of 1990, Public Law 101–649, sec. 545(d)(2), 104 Stat. 4978, 5066. In 1996, the Department updated the regulations regarding the BIA appeals process after publishing multiple related proposed rules in 1994 and 1995. See Executive Office for Immigration Review; Motions and Appeals in Immigration Proceedings, 61 FR 18900 (Apr. 29, 1996). The final rule established a sequential filing schedule for BIA briefing, which allowed each party 30 days to file a brief in sequence, although the BIA retained the authority to set a shorter period in individual cases. *Id.* at 18906. The 30-day period for all cases was a departure from the Department’s 1994 proposal to allow 30 days to file a brief only in non-detained cases and to allow 14 days for detained cases, which commenters objected to for treating the different classes of appellants differently. See Executive Office for Immigration Review; Motions and Appeals in Immigration Proceedings, 59 FR 29386, 29386 (June 7, 1994).

In 2002, the Department again updated EOIR’s regulations regarding the BIA’s appeals process. Board of Immigration Appeals: Procedural Reforms To Improve Case Management, 67 FR 54878 (Aug. 26, 2002). The reforms were designed to reduce the BIA’s backlog of pending cases, eliminate unwarranted delays in the adjudication of appeals, use the BIA’s resources efficiently, and focus resources on the most complicated appeals. Board of Immigration Appeals: Procedural Reforms To Improve Case Management, 67 FR 7309, 7310 (Feb. 19, 2002) (notice of proposed rulemaking (“NPRM”) that was finalized with the publication of 67 FR 54878). The Department reduced the time allowed for filing briefs from 30 days to 21 days after the transcript becomes available, regardless of the alien’s detention status, and maintained the BIA’s ability to set a shorter time for briefing in individual cases. 67 FR at 54904; 8 CFR 1003.3(c)(1). The Department also implemented a simultaneous briefing requirement for cases involving a detained alien but retained consecutive briefing for non-detained aliens. 67 FR at 54904.

In 2002, the Department also changed the standard time to file a brief in support of or in opposition to an appeal

from a DHS decision from 30 days to 21 days. *Id.*; 8 CFR 1003.3(c)(2). These regulatory changes standardized the briefing process for all appeals under the BIA’s jurisdiction.

The Department has not made any further amendments to the relevant regulations governing BIA briefing schedules since 2002. Under the current regulatory framework, for appeals of immigration judge decisions in cases involving aliens who are not detained in DHS custody, the appellant has 21 days to file a brief and the appellee then has the same amount of time to file a response brief. 8 CFR 1003.3(c)(1).<sup>4</sup> For appeals of immigration judge decisions in cases involving aliens detained in DHS custody, as well as appeals from certain DHS adjudications, the parties have 21 days to file briefs in support of or in opposition to the appeal. 8 CFR 1003.3(c)(1) and (2).<sup>5</sup> The BIA may extend the time to file a brief, including a reply brief, for an additional 90 days for good cause shown. 8 CFR 1003.3(c)(1). Briefs in appeals from an immigration judge decision involving an alien who is in custody are filed simultaneously, while briefs in appeals from an immigration judge decision involving an alien who is not in custody are filed consecutively. *Id.*

#### *B. Identity, Law Enforcement, or Security Investigations or Examinations*

The BIA generally may not grant an application for relief or protection unless DHS has completed the appropriate identity, law enforcement, or security investigations or examinations of the applicant and the results of those investigations or examinations are current. 8 CFR 1003.1(d)(6).<sup>6</sup> Affected applications

<sup>4</sup> Although the regulation from 2002 refers to the appellee’s brief as a “reply brief,” the BIA Practice Manual refers to it as a response brief. Bd. of Immigration Appeals, Dep’t of Justice, *Practice Manual* 63 (2018), <https://www.justice.gov/eoir/page/file/1101411/download> (“BIA Practice Manual”). By contrast, it refers to a brief filed in reply to the response brief as a “reply brief.” *Id.* The Supreme Court similarly distinguishes between response briefs and reply briefs. *E.g.*, *Amgen, Inc. v. Sandoz, Inc.*, 137 S.Ct. 908 (2017). By requiring simultaneous briefing in all cases, the proposed rule makes clear that there are no longer response briefs, only the possibility of reply briefs.

<sup>5</sup> For appeals of immigration judge decisions in which the underlying proceedings are transcribed, the briefing schedule is set by the BIA after the transcript is available. 8 CFR 1003.3(c)(1).

<sup>6</sup> Immigration judges are similarly unable to grant most applications for relief or protection without complete and current DHS identity, law enforcement, or security investigations or examinations. See 8 CFR 1003.47. Further, by statute, no alien can be granted asylum “until the identity of the applicant has been checked against all appropriate records or databases maintained by the Attorney General and by the Secretary of State, including the Automated Visa Lookout System, to

include the forms of relief or protection most frequently sought before EOIR, such as asylum, statutory withholding of removal, and protection under the regulations implementing U.S. obligations under Article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“CAT”);<sup>7</sup> adjustment of status; and cancellation of removal. 8 CFR 1003.47(b); see also 8 CFR 1003.1(d)(6)(i).

In cases where identity, law enforcement, or security investigations or examinations have not been completed or the results of such are no longer current, 8 CFR 1003.1(d)(6)(ii) currently allows the BIA two alternatives in order to further the adjudication of the case. First, the BIA may issue an order remanding the case to the immigration judge with instructions to permit DHS to complete or update investigations or examinations and report the results to the immigration judge. 8 CFR 1003.1(d)(6)(ii)(A). Alternatively, the BIA may provide notice to the parties that the case is being placed on hold until all identity, law enforcement, or security investigations or examinations are completed or updated and those results reported to the BIA. 8 CFR 1003.1(d)(6)(ii)(B).

The current regulations regarding the identity, law enforcement, or security investigations or examinations for aliens in EOIR proceedings were implemented in 2005. Background and Security Investigations in Proceedings Before Immigration Judges and the Board of Immigration Appeals, 70 FR 4743 (Jan. 31, 2005).<sup>8</sup> At that time, the Department included the option for the BIA to remand a case to the immigration judge while DHS completed or updated the appropriate investigations or examinations. *Id.* at 4748. This option addressed those cases that were pending before the BIA prior to publication of the interim rule. *Id.* This was because, prior to the regulatory changes, the record before the BIA would likely not have indicated whether DHS had ever conducted identity, law enforcement, or security investigations or examinations, and the BIA would not have been able to issue a final decision based on an incomplete record. *Id.* The Department did not intend the BIA issuance of

determine any grounds on which the alien may be inadmissible to or deportable from the United States, or ineligible to apply for or be granted asylum.” 8 U.S.C. 1158(d)(5)(A)(i).

<sup>7</sup> See generally 8 CFR 1208.16(c), 1208.17, 1208.18.

<sup>8</sup> The regulations were promulgated through an interim rule with request for comments, but that rule has not yet been finalized.



remands for the completion of identity, law enforcement, or security investigations or examinations to be an ongoing practice. *See id.* at 4749 (noting that “after the [rule’s] implementation period, it [was] expected that the number of cases where . . . the Board is required to hold or remand a case under 8 CFR 1003.1(d)(6) [would] diminish over time”).

Additionally, the EOIR regulations state that an alien’s failure to file necessary documentation or to comply with the requirements to provide biometrics and other biographical information in conformity with the applicable regulations, the instructions to the applications, the biometrics notice, and instructions provided by DHS within the time allowed by the immigration judge’s order constitutes abandonment of the application. 8 CFR 1003.47(c). The immigration judge may then enter an appropriate order dismissing the application unless the applicant demonstrates that such failure was the result of good cause. *Id.* For cases pending before the BIA, if the alien fails to comply with necessary procedures for collecting biometrics or other biographical information, DHS may move to remand the record to the immigration judge for consideration of whether the relief sought should be denied. 8 CFR 1003.1(d)(6)(iii). The regulations, however, do not currently provide Board members with the same authority as immigration judges to deem an application abandoned on this basis.

### C. Voluntary Departure

An alien in removal proceedings may request voluntary departure pursuant to section 240B of the INA, 8 U.S.C. 1229c. Voluntary departure permits an eligible alien to leave the United States on his or her own volition, and at his or her own expense, in lieu of receiving an order of removal. INA 240B(a)(1), 8 U.S.C. 1229c(a)(1). To qualify for voluntary departure before an immigration judge prior to the conclusion of removal proceedings pursuant to INA 240B(a)(1), an alien must make such request prior to or at the master calendar hearing during which the case is initially calendared for a merits hearing; make no additional requests for relief (or if such requests have been made, withdraw such requests prior to any grant of voluntary departure pursuant to that section); concede removability; waive appeal of all issues; not be convicted of a crime described in section 101(a)(43) of the INA, 8 U.S.C. 1101(a)(43); and not be deportable under section 237(a)(4) of the INA, 8 U.S.C. 1227(a)(4). *See* 8 CFR 1240.26(b). To qualify for voluntary

departure before an immigration judge at the conclusion of removal proceedings, an alien must have at least one year of physical presence in the United States; have been a person of good moral character for five years preceding the application for voluntary departure; must not be deportable under specified sections of the INA; and must be able to establish by clear and convincing evidence that he or she has the means and intention to depart the United States. INA 240B(b)(1)(A)–(D), 8 U.S.C. 1229c(b)(1)(A)–(D); 8 CFR 1240.26(c).<sup>9</sup>

Although voluntary departure provides an alternative to an order of removal, it does not allow an alien to remain in the United States beyond a prescribed period, and the disposition of a request for voluntary departure does not affect determinations of an alien’s removability or adjudication of an alien’s application for protection or relief from removal that would allow the alien to remain in the United States. In *Dada v. Mukasey*, the Supreme Court described voluntary departure as “an agreed-upon exchange of benefits, much like a settlement agreement.” 554 U.S. 1, 19 (2008). An alien, in agreeing to voluntary departure, avoids the consequences of being ordered removed from the United States, thus preserving the opportunity for future benefits, including the possibility of lawful readmission. *Id.*; *cf.* INA 212(a)(9)(A), 8 U.S.C. 1182(a)(9)(A) (providing for the inadmissibility of aliens ordered removed or who depart while under an order of removal). The Supreme Court recognized that voluntary departure is beneficial for the Government as well, as it “expedites the departure process and avoids the expense of deportation” as well as “eliminate[s] some of the costs and burdens associated with litigation over the departure.” *Dada*, 554 U.S. at 11.

Upon granting a request for voluntary departure, an immigration judge must also enter an alternate order of removal. 8 CFR 1240.26(d). Failure to comply with specified conditions of voluntary departure, filing a motion to reopen or reconsider during the voluntary departure period, or filing a petition for review or any other judicial challenge to the final administrative order may result in automatic termination of voluntary departure and effectuate the alternative order of removal. 8 CFR 1240.26(c)(4), (e), (i). In addition to rendering the alien

<sup>9</sup> Under certain circumstances, an alien may be granted voluntary departure by DHS in lieu of removal proceedings, as provided in 8 CFR 240.25. This form of voluntary departure is subject to regulatory procedures that are not implicated by the proposed rule.

subject to the alternate order of removal, failure to depart within the voluntary departure period may result in civil penalties. INA 240B(b), 8 U.S.C. 1229c(b); 8 CFR 1240.26(j).

Currently, the regulations describe only an immigration judge’s authority to grant voluntary departure in the first instance. *See generally* 8 CFR 1240.26. However, the regulations specify that in limited circumstances, the BIA may reinstate an order of voluntary departure when removal proceedings have been reopened for a purpose other than solely requesting voluntary departure. 8 CFR 1240.26(h). Under current EOIR practice, the BIA may remand a case to the immigration court for the sole purpose of considering eligibility for voluntary departure, a decision that has no bearing on the respondent’s removability or eligibility for relief or protection that would allow the respondent to remain in the United States. The BIA may also remand a case for the purpose of the immigration judge’s “ministerial review” of whether the alien received the proper voluntary departure advisals described in 8 CFR 1240.26(b)(3)(iii), (c)(3) and (j). *See Batubara v. Holder*, 733 F.3d 1040, 1042 (10th Cir. 2013). The BIA will also remand a case when such advisals have not been given. *Matter of Gamero*, 25 I&N Dec. 164, 168 (BIA 2010).

### D. Motions To Remand

Parties to EOIR proceedings may file a motion to remand while their appeal is pending before the BIA. A motion to remand seeks to return jurisdiction of a case pending before the BIA to the immigration judge. Motions to remand, which are not described in the INA, were initially a judicially created concept rooted in principles of civil practice that were later codified into Title 8 of the CFR. *See Matter of Coelho*, 20 I&N Dec. 464, 470–71 (BIA 1992); 61 FR at 18904.

Currently, a party asserting that the BIA cannot properly resolve an appeal without further factfinding must file a motion to remand. 8 CFR 1003.1(d)(3)(iv). Motions to remand in most cases are subject to the same substantive requirements as motions to reopen. *See Matter of Coelho*, 20 I&N Dec. at 471. Accordingly, the BIA may deny a motion to remand where the evidence was previously available at an earlier stage in the proceedings or if the evidence is not material. *See* BIA Practice Manual at 84.

A motion to remand is filed while an appeal is still pending before the BIA, whereas a motion to reopen is typically filed after agency review of the case has concluded. A motion to reopen a

decision rendered by an immigration judge that is pending when an appeal is filed or that is filed while an appeal is pending may be deemed a motion to remand and may be consolidated with the appeal. 8 CFR 1003.2(c)(4). Motions to remand are not subject to the same time or number limitations as motions to reopen because they are made during the pendency of an appeal. *See Matter of Oparah*, 23 I&N Dec. 1, 2 (BIA 2000). Currently, BIA policy states that if the BIA grants a motion to remand a decision back to the immigration judge, a party may once again file an appeal from the immigration judge's resulting decision, and that party may pursue any new or unresolved issues from the prior appeal. BIA Practice Manual at 85.

#### E. Factfinding

Except for taking administrative notice of commonly known facts such as current events or the contents of official documents, the Board does not engage in factfinding in the course of deciding appeals. 8 CFR 1003.1(d)(3)(iv). A party asserting that an appeal cannot be properly resolved without further factfinding must file a motion for remand. *Id.* If further factfinding is needed, the Board may remand the proceeding. *Id.*

#### F. Scope of a Board Remand

When the Board remands a case, it divests itself of jurisdiction unless jurisdiction is expressly retained. *Matter of Patel*, 16 I&N Dec. 600, 601 (BIA 1978). “[W]hen this is done, unless the Board qualifies or limits the remand for a specific purpose, the remand is effective for the stated purpose and for consideration of any and all matters which the service officer deems as appropriate . . . .” *Id.* Cases remanded for the completion of identity, law enforcement, or security investigations or examinations pursuant to 8 CFR 1003.47(h) are also treated as general remands, and an immigration judge may consider new evidence in such a remanded case “if it is material, was not previously available, and could not have been discovered or presented at the former hearing.” *Matter of M–D–*, 24 I&N Dec. 138, 141 (BIA 2007). Circuit courts have construed *Matter of Patel* to mean that the BIA can limit the scope of its remand only if it (1) expressly retains jurisdiction and (2) qualifies or limits the scope of remand. *Bermudez-Ariza v. Sessions*, 893 F.3d 685, 688 (9th Cir. 2018); *Johnson v. Ashcroft*, 286 F.3d 696, 701 (3rd Cir. 2002). No regulation allows the Board to expressly retain jurisdiction over a remanded case, however, and the Board rarely, if ever, does so in practice unless the remand is

for a ministerial issue such as the need to forward the administrative record. *See* BIA Practice Manual at 76 (“Once a case has been remanded to the Immigration Judge, the only motion that the Board will entertain is a motion to reconsider the decision to remand.”).

#### G. Quality Assurance

In contrast to other administrative adjudicatory agencies, the Board does not have a formal quality assurance process to ensure that its remand decisions provide appropriate and sufficient direction to the immigration judges. *See, e.g., Soc. Sec. Admin., Hearings, Appeals, and Litigation Law Manual* I–2–1–85 through I–2–1–88, [https://www.ssa.gov/OP\\_Home/hallex/I-02/I-2-1.html](https://www.ssa.gov/OP_Home/hallex/I-02/I-2-1.html) (“HALLEX”) (outlining policies for administrative law judges (“ALJs”) at the Social Security Administration (“SSA”) to seek clarifications of remand orders from the SSA Appeals Council and a feedback initiative allowing ALJs to raise other issues regarding remand orders). Although the Board has used various informal and internal quality control measures over time, no formal mechanism exists allowing immigration judges to raise issues regarding remand orders that may need clarification or further explication.

#### H. 8 CFR 1003.1(d)(1)(ii) and 1003.10(b) and Administrative Closure

Under 8 CFR 1003.1(d)(1)(ii) and 1003.10(b), Board members and immigration judges are authorized, *inter alia*, to “take any action consistent with their authorities under the [INA] and regulations that is appropriate and necessary for the disposition” of cases before them.<sup>10</sup>

Prior to 2012, the Department did not consider 8 CFR 1003.1(d)(1)(ii) or 1003.10(b) or any similar regulatory provision to authorize an immigration judge or the Board to unilaterally administratively close a case over a party's objection.<sup>11</sup> To the contrary,

<sup>10</sup> Similar language for immigration judges also occurs in 8 CFR 1240.1(a)(1)(iv) and (c).

<sup>11</sup> “In 1984, the Chief Immigration Judge instructed immigration judges to consider administrative closure as one means of addressing the ‘recurring problem’ of respondents’ failure to appear at hearings. The Chief Immigration Judge did not identify any basis for this authority. Nonetheless, immigration judges and the Board soon employed administrative closure in all types of removal proceedings. By 1988, the Board described the practice as an ‘administrative convenience.’ Between 1988 and 2012, Board precedent held that an immigration judge could grant administrative closure only where both parties supported the request. These decisions again assumed without explanation that immigration judges and the Board possessed this general authority.” *Matter of Castro-Tum*, 27 I&N Dec. 271, 273–74 (A.G. 2018) (citations omitted).

longstanding Board precedent made clear that an immigration judge was required both to complete a case and to complete it through only one of three avenues: An order of termination, an order of removal, or an order of relief or protection. *Matter of Chamizo*, 13 I&N Dec. 435, 437 (BIA 1969) (“We hold that 8 CFR 242.18(c) [now 8 CFR 1240.13(c)] requires that in deportation proceedings an order be entered which will result in the proceedings being processed to a *final conclusion*, whether by the deportation of the alien, the termination of proceedings or the granting of some form of discretionary relief as provided in the [INA].” (emphasis added)).<sup>12</sup>

Moreover, similarly longstanding Board precedent and administrative law separation-of-function principles dictated that the Board or an immigration judge should not assume the role of the prosecutor and determine which immigration cases should be adjudicated and which ones should not. Thus, as one Board decision described the previous state of affairs, an immigration judge “may neither terminate nor indefinitely adjourn the proceedings in order to delay an alien's deportation . . . [and] [o]nce deportation proceedings have been initiated by the District Director, the immigration judge may not review the [discretion] of the District Director's action, but must execute his duty to determine whether the deportation charge is sustained by the requisite evidence in an expeditious manner.” *Matter of Quintero*, 18 I&N Dec. 348, 350 (BIA 1982), *aff'd sub nom. Quintero-Martinez v. INS*, 745 F.2d 67 (9th Cir. 1984); *see also Matter of Roussis*, 18 I&N Dec. 256, 258 (BIA 1982) (“It has long been held that when enforcement officials of the [Immigration and Naturalization Service (“INS”), now DHS] choose to initiate proceedings against an alien and to prosecute those proceedings to a conclusion, the immigration judge is obligated to order deportation if the evidence supports a finding of deportability on the ground charged.”); *cf. Lopez-Telles v. INS*, 564 F.2d 1302, 1304 (9th Cir. 1977) (“Rather, these decisions plainly hold that the

<sup>12</sup> Administrative closure is not in itself relief from removal. *Matter of W–Y–U–*, 27 I&N Dec. 17, 18 (BIA 2017) (“Administrative closure is not a form of relief from removal and does not provide an alien with any immigration status.”), *overruled on other grounds by Matter of Castro-Tum*, 27 I&N Dec. 271. Courts, however, have routinely (and erroneously) characterized it as such. *See, e.g., Caballero-Martinez v. Barr*, 920 F.3d 543, 549–550 (8th Cir. 2019); *Perez Alba v. Gonzales*, 148 F. App'x 593, 594 (9th Cir. 2005); *Singh v. Gonzales*, 123 F. App'x 299, 300 (9th Cir. 2005); *Mickeviciute v. INS*, 327 F.3d 1159, 1161 n.1 (10th Cir. 2003).

immigration judge is without discretionary authority to terminate deportation proceedings so long as enforcement officials of the INS choose to initiate proceedings against a deportable alien and prosecute those proceedings to a conclusion. The immigration judge is not empowered to review the wisdom of the INS in instituting the proceedings. His powers are sharply limited, usually to the determination of whether grounds for deportation charges are sustained by the requisite evidence or whether there has been abuse by the INS in its exercise of particular discretionary powers. This division between the functions of the immigration judge and those of INS enforcement officials is quite plausible and has been undeviatingly adhered to by the INS.”); *Matter of Silva-Rodriguez*, 20 I&N Dec. 448, 449–50 (BIA 1992) (undue delay by an immigration judge may frustrate or circumvent statutory purpose of prompt immigration proceedings); *Matter of Yazdani*, 17 I&N Dec. 626, 630 (BIA 1991) (“However, so long as the enforcement officials of the [INS] choose to initiate proceedings against an alien and to prosecute those proceedings to a conclusion, the immigration judge and the Board must order deportation if the evidence supports a finding of deportability on the ground charged.”).

In 2012, however, the Board relied, in part, on language in 8 CFR 1003.1(d)(1)(ii) and 1003.10(b) to hold that immigration judges may unilaterally and indefinitely suspend immigration proceedings through the use of administrative closure even if one party objected. *Matter of Avetisyan*, 25 I&N Dec. 688, 697 (BIA 2012), *overruled by Matter of Castro-Tum*, 27 I&N Dec. 271. The *Avetisyan* decision was overruled in 2018 when the Attorney General, in accordance with his statutory authority, 8 U.S.C. 1103(a)(1), held that immigration judges and Board members “do not have the general authority to suspend indefinitely immigration proceedings by administrative closure” and that they “may only administratively close a case where a previous regulation or a previous judicially approved settlement expressly authorizes such an action.” *Matter of Castro-Tum*, 27 I&N Dec. at 271. Notwithstanding the Attorney General’s controlling interpretation of the law under 8 U.S.C. 1103(a)(1), the question whether 8 CFR 1003.1(d)(1)(ii) and 1003.10(b) allow immigration judges and Board members to indefinitely adjourn immigration proceedings through the use of administrative closure continues to

drive litigation and cause inconsistent application of immigration laws. *See, e.g., Romero v. Barr*, 937 F.3d 282 (4th Cir. 2019) (holding that 8 CFR 1003.1(d)(1)(ii) and 1003.10(b) allow immigration judges and Board members to indefinitely postpone immigration proceedings through the use of administrative closure and abrogating *Matter of Castro-Tum* within the jurisdiction of the Fourth Circuit); *see also Morales v. Barr*, 963 F.3d 629 (7th Cir. 2020) (same for the Seventh Circuit).<sup>13</sup>

#### *I. Sua Sponte Reopening or Reconsideration of Closed Cases*

In general, motions to reopen or reconsider a case in which the immigration judge or the Board has rendered a decision are subject to time and number limitations. These limitations were initially promulgated by regulation. *See* 8 CFR 3.2, 3.23, 103.5, and 208.19 (1996). Congress subsequently enacted statutory time and number limitations for reopening or reconsideration of removal proceedings, as provided in section 240(c)(6) and (7) of the INA, 8 U.S.C. 1229a(c)(6) and (7). In general, the EOIR regulations and the statutory provisions of section 240 of the INA provide that an alien may file only one motion to reconsider the decision of the immigration judge or the BIA and must do so within 30 days of the entry of the final administrative order, and that the alien may file only one motion to reopen the decision of the immigration judge or the BIA and must do so within 90 days of the entry of the final administrative order. However, there are specific statutory exceptions from these time limits in cases involving in absentia orders of removal, asylum claims based on changed country conditions after the entry of the previous decision, or certain claims involving battered spouses, children, or parents. *See* 8 U.S.C. 1229a(c)(7)(C)(ii)–(iv). These principles are embodied in the current EOIR regulations at 8 CFR 1003.2 and 1003.23.

<sup>13</sup> *Matter of Castro-Tum* continues to apply to immigration proceedings outside of the Fourth and Seventh Circuits. Also, neither *Romero* nor *Morales* addressed the statutory commitment to the Attorney General to make “controlling” determinations of immigration laws under 8 U.S.C. 1103(a)(1); the regulatory specifications that only the Director, the Chief Appellate Immigration Judge, and the Chief Immigration Judge—and not line appellate immigration judges or line immigration judges—have authority to defer adjudication of cases; nor the evident superfluity of those specifications for the Chief Appellate Immigration Judge and the Chief Immigration Judge if all appellate immigration judges and immigration judges already possess that authority. *See* 8 CFR 1003.0(b)(1)(ii), 1003.1(a)(2)(i)(C), 1003.9(b)(3); *compare* 8 CFR 1003.0(b)(1)(ii) and 1003.1(a)(2)(i)(C), with 8 CFR 1003.1(d)(1)(ii) and 1003.10(b).

As a further exception to the time and number limitations on motions to reopen and reconsider, both the BIA and immigration judges presently have the authority to reopen or reconsider a case *sua sponte*. *See* 8 CFR 1003.2(a), 1003.23(b)(1). The Board has made clear that this authority “is not meant to be used as a general cure for filing defects or to otherwise circumvent the regulations, where enforcing them might result in hardship.” *Matter of J–J*, 21 I&N Dec. 976, 984 (BIA 1997); *see also Matter of G–D*, 22 I&N Dec. 1132, 1133–34 (BIA 1999) (explaining that the Board’s discretion to reconsider a case *sua sponte* is “an extraordinary remedy reserved for truly exceptional situations”). It has further emphasized the importance of both complying with the time and number limitations on motions and ensuring the finality of immigration proceedings and of not utilizing its *sua sponte* authority to circumvent those considerations. *Matter of Beckford*, 22 I&N Dec. at 1221.

#### *J. Certification Authority*

In most instances, decisions by immigration judges are brought to the Board for review through an appeal filed by the respondent or by DHS. Under 8 CFR 1003.38, the parties have 30 calendar days from the issuance of an oral decision or the mailing of a written decision to file an appeal with the Board. However, apart from the appeal process, the Secretary of Homeland Security, any other duly authorized officer of DHS, any immigration judge, or the Board itself may certify an immigration judge’s decision or a reviewable DHS decision for review by the Board. 8 CFR 1003.1(c); *see also* 8 CFR 1001.1(c) and (d). The Board can certify cases only for matters within its appellate jurisdiction. 8 CFR 1003.1(c); *Matter of Sano*, 19 I&N Dec. 299, 301 (BIA 1985). Further, the Board cannot certify cases or issues implicitly. *Matter of Jean*, 23 I&N Dec. 373, 380 n.9 (A.G. 2002). Although the regulations do not specify any standard governing the Board’s certification to itself, the Attorney General has concluded that the Board’s discretion is not unbounded and is analogous to its authority to reopen or reconsider proceedings *sua sponte*. *Id.*

#### *K. Timeliness of the Adjudication of BIA Appeals and Composition of BIA Panels*

Except in limited circumstances, appeals assigned to a single Board member are to be decided within 90 days of completion of the record on appeal, whereas appeals assigned to a three-member panel are to be decided within 180 days (including any

additional opinion by a member of the panel) of assignment to the panel. 8 CFR 1003.1(e)(8)(i). The regulations do not specify completion parameters for other categories of appeals, such as interlocutory appeals and appeals subject to summary dismissal, nor do they specify time frames for pre-adjudicatory processing such as requesting the record of proceeding and ordering transcripts. *See id.*

If an appeal is taken from a decision of an immigration judge, the record of proceeding is forwarded to the Board upon request or order of the Board. 8 CFR 1003.5(a). Where transcription of a decision is required, the immigration judge shall review the transcript within 14 days of receipt or within 7 days after returning to his or her duty station. *Id.* If an appeal is taken from a decision by DHS, the record of proceeding shall be forwarded to the Board by the DHS officer upon receipt of the briefs or expiration of the time allowed for briefs. 8 CFR 1003.5(b); *see also* 8 CFR 1001.1(c).

#### IV. Proposed Changes

The changes proposed by the Department are summarized below. The changes discussed in subsections A through G, K, and L below are intended to apply to appeals filed on or after the effective date of publication. The changes discussed in subsections H through J below are intended to be effective on the date of publication.

##### A. Briefing Extensions

First, this NPRM would reduce the maximum allowable time for an extension of the briefing schedule to 14 days. Although current regulations allow an extension of up to 90 days, Board policy for many years has been to grant an extension of only 21 days regardless of the amount of time actually requested. BIA Practice Manual at 65; *cf.* Revised General Practice Regarding First Briefing Deadline Extension Request for Detained Aliens, 71 FR 51856, 51857 (Aug. 31, 2006) (noting that Board policy will continue to allow granting briefing extension requests of 21 days in detained cases). Because briefing extensions are disfavored in the first instance, BIA Practice Manual at 65 (“In the interest of fairness and the efficient use of administrative resources, extension requests are not favored.”), and because the Board expects any extension request to be for the purpose of completing or finalizing a brief—rather than drafting it from the beginning—there is no justification for a lengthy extension period. Moreover, reducing the amount of time for an extension will decrease

the likelihood of gamesmanship associated with simultaneous briefing in which one party files a last-minute extension request and then has a lengthy period of time to review and address arguments made in the opposing party’s brief that was already filed consistent with the prior deadline.

If the appeal is from an immigration judge decision in a case that is transcribed, the BIA will continue to set the briefing schedule after the transcript becomes available. This proposal would not eliminate the BIA’s continued ability to extend the time allowed for filing a brief for good cause shown or to consider a late-filed brief as a matter of discretion. 8 CFR 1003.3(c). However, it would expressly limit the number of allowable extensions consistent with current Board policy “*not to grant second briefing extension requests.*” BIA Practice Manual at 65 (emphasis in original).

The proposed rule further clarifies that there is no right to a briefing extension by any party in any case and prohibits the Board from adopting a policy of granting all extension requests without an individualized finding of good cause. Should the Board determine that supplemental briefing may be beneficial in particular cases, however, the proposed rule allows the Board to ask for such briefing after the expiration of the initial briefing schedule.

Under the proposed framework, depending on whether the case requires the preparation of a transcript, whether the transcript can be timely prepared, and whether a briefing extension is granted, a party would have at least a month and potentially up to almost three months to submit a brief if it chooses, from the time an appeal is filed, which the Department expects to be ample time even without access to the transcript to address the issues in most cases. Approximately 78 percent of respondents have representation on appeal, and DHS is represented in all appeals. EOIR, *Adjudication Statistics: Current Representation Rates* (Apr. 15, 2020), <https://www.justice.gov/eoir/page/file/1062991/download>. Consequently, in most cases, both parties have reviewed the case at the time an appeal is filed. Moreover, the issues should be squarely presented in the Notice of Appeal, which requires specific details about the case and arguments to be considered, well before any briefs are filed. Under 8 CFR 1003.3(b), the party taking the appeal must identify the reasons for the appeal in the Notice of Appeal (Form EOIR–26 or Form EOIR–29) or in any attachments thereto, in order to avoid summary dismissal pursuant to § 1003.1(d)(2)(i).

Such a statement must specifically identify the findings of fact, the conclusions of law, or both, that are being challenged. Moreover, if a question of law is presented, supporting authority must be cited. If the dispute is over the findings of fact, the specific facts contested must be identified. In addition, where the appeal concerns discretionary relief, the appellant must state whether the alleged error relates to statutory grounds of eligibility or to the exercise of discretion and must identify the specific factual and legal finding or findings that are being challenged. Furthermore, the parties frequently do not file a brief at all.<sup>14</sup> For instance, in FY 2019, the Board issued a briefing schedule in approximately 17,069 cases. Of those, the respondent did not file a brief in approximately 4,400 cases, DHS did not file a brief in roughly 10,900 cases, and neither party filed a brief in over 3,000 cases.<sup>15</sup>

Consequently, although the changes will allow the Board to more expeditiously address its growing caseload, they should have relatively little impact on the preparation of cases by the parties on appeal. Further, it is expected that these changes will shorten the time required for a case to work through the BIA’s adjudicatory process, enabling the BIA to maximize its adjudicatory capacity and EOIR to meet its obligation to complete cases in an expeditious manner. EOIR will be able to adjudicate more cases annually, ensuring that both parties receive a final decision expeditiously following notice and an opportunity to be heard consistent with the requirements of due process.

##### B. Simultaneous Briefing

Additionally, the Department proposes to adopt simultaneous briefing schedules instead of consecutive briefing schedules for cases involving aliens who are not in custody. This change would reduce adjudicatory delay by shortening the briefing period for non-detained cases from a total of 63 days (21 days for the initial brief, plus a 21-day extension, and 21 days for the responsive brief) to a total of 35 days (21 days for simultaneous briefs, plus a 14-day extension), not counting any time needed for preparation of a transcript

<sup>14</sup> Neither the appellee nor the appellant is required to submit a brief. The party taking an appeal will indicate on Form EOIR 26, Notice of Appeal from a Decision of an Immigration Judge, whether it intends to submit a brief on appeal by checking a box.

<sup>15</sup> These numbers treat the filing of a motion to summarily affirm the decision below as the filing of a brief. These numbers do not exclude cases in which a party indicated on the Notice of Appeal that it did not intend to file a separate brief.

and setting the briefing schedule or filing of a reply brief, if applicable. This change in turn will enable the BIA to more expeditiously review and adjudicate non-detained appeals. The proposed regulation maintains the BIA's ability to permit reply briefs in certain cases. 8 CFR 1003.3(c).

The Department previously considered simultaneous briefing for all appeals but ultimately adopted the practice only for detained appeals. 67 FR 54895. Simultaneous briefing has worked well for appeals involving aliens who are in custody, and upon further consideration, there is no apparent reason not to apply it to non-detained cases as well, particularly when both parties are frequently represented on appeal and one or both parties may often choose not to file a brief at all. It is also important to harmonize the briefing requirements to the maximum extent possible to ensure that all cases—and not solely detained cases—are adjudicated in a timely manner. Both the parties and the Department have a strong interest in ensuring that appeals are adjudicated expeditiously, and there is currently no legal or operational reason to adjudicate non-detained cases in a less efficient manner than detained cases. In light of the Department's experience with simultaneous briefing in detained cases, the Department believes that, whatever basis there may have been previously to treat the two categories of cases differently, *see id.*, those reasons are no longer sufficiently compelling to warrant the continued disparate treatment of detained and non-detained cases on appeal. To that end, the Department believes that implementing simultaneous briefing would allow non-detained cases to be adjudicated in a more expeditious manner. The Department also notes that this change is consistent with a previously-expressed public concern that treating two classes of appellants differently—*i.e.*, non-detained aliens and detained aliens—was “inequitable and fundamentally unfair.” *See* 61 FR 18902–03.

### C. BIA Remands for Identity, Law Enforcement, or Security Investigations or Examinations

The Department proposes to revise 8 CFR 1003.1(d)(6)(ii) to provide that, when a case before the BIA requires completing or updating identity, law enforcement, or security investigations or examinations, the exclusive course of action would be for the BIA to place the case on hold while identity, law enforcement, or security investigations or examinations are being completed or

updated, unless DHS reports that identity, law enforcement, or security investigations or examinations are no longer necessary or until DHS does not timely report the results of completed or updated identity, law enforcement, or security investigations or examinations. Under this NPRM, the BIA would no longer remand a case to the immigration court for the sole purpose of completing or updating identity, law enforcement, or security investigations or examinations, which has become a common practice in the 14 years since the relevant regulations were last updated. *See, e.g., Matter of S–A–K– and H–A–H–*, 24 I&N Dec. 464, 466 (BIA 2008) (order sustaining appeal and remanding the case to the immigration judge for DHS to complete or update background checks). There is no apparent operational reason why the BIA cannot hold a decision until it receives information from DHS regarding completed or updated identity, law enforcement, or security investigations or examinations. And routinely remanding cases solely for that purpose both needlessly delays resolution of a case and takes up space on an immigration court docket that could otherwise be used to address another case. In light of the growing immigration court backlog and the necessity to preserve overburdened judicial resources at the immigration courts, it is appropriate to remove the option to remand cases to the immigration court for the sole purpose of completing or updating identity, law enforcement, or security investigations or examinations to ensure that such cases are addressed as expeditiously as possible.<sup>16</sup> The Board need not hold a case, however, if it decides to dismiss a respondent's appeal or to deny the relief or protection sought. 8 CFR 1003.1(d)(6)(iv).<sup>17</sup>

Only if the results are not reported by DHS within 180 days of the Board's notice of placing a case on hold will the Board remand a case to an immigration court for further proceedings. The proposed rule makes clear, however,

<sup>16</sup> As discussed further, *infra*, the Board may remand cases to the immigration judge in which the identity, law enforcement, or security investigations or examinations need to be completed or updated but DHS has not timely reported the results of those checks. Further, DHS may move to remand a case based on the results of the identity, law enforcement, or security investigations or examinations.

<sup>17</sup> The proposed rule makes conforming edits to 8 CFR 1003.1(d)(6)(iv) due to the proposed changes to 8 CFR 1003.1(d)(6)(ii). It also makes a clarifying edit to 8 CFR 1003.1(d)(6)(iv) in recognition of the fact that the Board considers appeals of applications for protection—*e.g.*, withholding of removal under the INA or protection under the CAT—in addition to appeals of applications for relief.

that the Board may also remand a case if the results of the identity, law enforcement, or security investigations or examinations raise an issue that should be considered by the immigration judge in the first instance.

Additionally, the Department proposes to authorize the BIA to deem an application abandoned when the applicant fails, after being notified by DHS, to comply with the requisite procedures for DHS to complete the identity, law enforcement, or security investigations or examinations within 90 days of the BIA's notice that the case is being placed on hold for the completion of the identity, law enforcement, or security investigations or examinations. This change provides the BIA with similar authority already delegated to immigration judges pursuant to 8 CFR 1003.47(c) and (d).<sup>18</sup> The Department believes that authorizing the BIA to deem such applications abandoned will promote uniformity in EOIR adjudicatory procedure and maximize the prompt adjudication of cases.

### D. Finality of BIA Decisions and Voluntary Departure Authority

The Department proposes to amend 8 CFR 1003.1(d)(7) to provide further guidance regarding the finality of BIA decisions. First, the Department proposes to add a new paragraph (d)(7)(i) to clarify that the BIA has authority to issue final orders when adjudicating an appeal, including final orders of removal when a finding of removability has been made by an immigration judge and an application for protection or relief from removal has been denied;<sup>19</sup> grants of relief or

<sup>18</sup> Because DHS is responsible for biometrics checks for detained aliens, because a non-detained alien will have already had biometrics taken at the immigration court level, and because the biometrics checks can often be updated without requiring the alien to be fingerprinted again, *see* U.S. Citizenship & Immigration Servs., Dep't of Homeland Sec., *Fingerprint Check Update Request: Agreement Between USCIS and ICE* (July 27, 2016), <https://www.uscis.gov/forms/fingerprints/fingerprint-check-update-request-agreement-between-uscis-and-ice>, the alien will not generally need to do anything once the BIA issues its notice. Nevertheless, the BIA's notice will notify the alien that, if the alien is non-detained and biometrics need to be taken again, DHS will contact the alien.

<sup>19</sup> An immigration judge generally will not consider an application for protection or relief from removal until a finding of removability has been made. Thus, in cases in which an immigration judge has terminated proceedings after finding an alien not removable, DHS has appealed that decision, and the Board sustains the appeal, the Board would remand that case to the immigration judge for consideration of any applications for protection or relief the alien may choose to file rather than issuing an order of removal in the first instance.

protection from removal; and orders to terminate or dismiss proceedings. Most circuit courts to consider this issue have concluded that the BIA possesses such authority.<sup>20</sup> See, e.g., *Sosa-Valenzuela v. Gonzales*, 483 F.3d 1140, 1146 (10th Cir. 2007) (collecting cases); *accord Solano-Chicas v. Gonzales*, 440 F.3d 1050, 1054 (8th Cir. 2006) (“[T]he BIA’s power is not just one of merely affirming or reversing IJ decisions; it may order relief itself. We find it entirely consistent that the BIA also may deny status and order an alien removed.” (internal citations omitted)).

The Department also proposes to add a new paragraph (d)(7)(iii) to 8 CFR 1003.1 to delegate clear authority to the BIA to consider issues relating to the immigration judge’s decision on voluntary departure *de novo* and, within the scope of the BIA’s review authority on appeal, to issue final decisions on requests for voluntary departure based on the record of proceedings. The proposed rule enumerates procedural and substantive requirements related to this authority, including, *inter alia*, the content of advisals that the BIA must provide to the alien, the means by which the BIA must provide advisals, the means by which an alien may accept or decline the BIA’s grant of voluntary departure, and how an alien is required to post a voluntary departure bond. These amendments follow the current regulations regarding voluntary departure before the immigration court at 8 CFR 1240.26 and are intended to create analogous authority at the BIA, based on the record developed at the immigration judge hearing.

Additionally, the proposed rule would directly state that the BIA may not remand a case to the immigration court solely to consider a request for voluntary departure under section 240B(b) of the INA. Because the Board may provide relevant advisals to a respondent regarding voluntary departure; because appeals raising the issue of voluntary departure will proffer a respondent’s eligibility for that relief before the immigration court (or else the issue will be deemed waived); and because the record will otherwise contain evidence of such eligibility (or else the opportunity to present such evidence will be deemed waived), a remand solely to consider that issue is a waste of resources and places wholly

unnecessary burdens on immigration courts. In short, there is no operational reason that the BIA cannot resolve a request for voluntary departure rather than remanding the case to an immigration judge, prolonging the case unnecessarily, and inviting an additional appeal if the respondent disagrees with the immigration judge’s determination. Any BIA final order or grant of voluntary departure would continue to be a legal determination based upon the facts as found by the immigration judge during the course of the underlying proceedings, subject to a “clearly erroneous” standard. Moreover, for cases in which an immigration judge failed to provide advisals related to a request for voluntary departure, the Board can provide such advisals without needing to engage in factfinding—and without remanding the case—because the advisals are established by regulation.

Together with the amendment to the identity, law enforcement, or security investigations or examinations procedures described above, these amendments would ensure that the BIA is empowered to make all relevant decisions related to an appeal and prevent the BIA from issuing an order to remand a case solely to instruct the immigration judge to issue a particular final order that is within the BIA’s authority.

#### *E. Prohibition on Consideration of New Evidence, Limitations on Motions To Remand, Factfinding by the BIA, and the Standard of Review*

The Department proposes several changes to clarify the BIA’s ability to take certain actions in adjudicating an appeal to ensure that appeals are adjudicated in a timely fashion without undue remands and consistent with the applicable law. First, the Department proposes to limit the scope of motions to remand that the BIA may consider. Under the proposed paragraph (d)(7)(v) to 8 CFR 1003.1, the BIA would be prohibited from receiving new evidence on appeal, remanding a case for the immigration judge to consider new evidence in the course of adjudicating an appeal, or considering a motion to remand based on new evidence. Parties who wish to have new evidence considered in other circumstances may file a motion to reopen in accordance with the standard procedures for such motions, *i.e.*, compliance with the substantive requirements for such a motion at 8 CFR 1003.2(c). There would be three exceptions to these prohibitions. The first would be for new evidence that is the result of identity, law enforcement, or security

investigations or examinations, including civil or criminal investigations of immigration fraud.<sup>21</sup> The second would be for new evidence pertaining to a respondent’s removability under the provisions of 8 U.S.C. 1182 and 8 U.S.C. 1227. The third would be for new evidence that calls into question an aspect of the jurisdiction of the immigration courts, such as evidence pertaining to alienage, *e.g.*, *Matter of Fuentes*, 21 I&N Dec. 893, 898 (BIA 1997) (EOIR has no jurisdiction over United States citizens), or EOIR’s authority vis-à-vis DHS regarding an application for immigration benefits, *see, e.g.*, 8 U.S.C. 1158(b)(3)(C) (DHS has initial jurisdiction over an asylum application filed by a genuine unaccompanied alien child (as defined in 6 U.S.C. 279(g))); *Matter of M-A-C-O-*, 27 I&N Dec. 477, 480 (BIA 2018) (an immigration judge has initial jurisdiction over an asylum application filed by a respondent who was previously determined to be an unaccompanied alien child but who turned 18 before filing the application); *Matter of Martinez-Montalvo*, 24 I&N Dec. 778, 778–89 (BIA 2009) (immigration judges have no jurisdiction to adjudicate an application filed by an arriving alien seeking adjustment of status under the Cuban Refugee Adjustment Act of November 2, 1966, with the limited exception of an alien who has been placed in removal proceedings after returning to the United States pursuant to a grant of advance parole to pursue a previously filed application); *Matter of Singh*, 21 I&N Dec. 427, 433–34 (BIA 1996) (EOIR lacks jurisdiction over legalization applications pursuant to section 245A of the INA).

Ordinarily the BIA does not consider new evidence on appeal. *Matter of Fedorenko*, 19 I&N Dec. 57, 74 (BIA 1984). In other cases, however, it will remand a case for consideration of new evidence when the alien “ha[s] met the ‘heavy burden’ of showing that the new evidence presented ‘would likely change the result in the case.’” *Matter of L-O-G-*, 21 I&N Dec. 413, 420 (BIA 1996) (quoting *Matter of Coelho*, 20 I&N Dec. at 473). It will also sometimes construe the submission of new evidence on appeal as a motion to remand for further factfinding pursuant to 8 CFR 1003.1(d)(3)(iv). The lines

<sup>20</sup> The Department is not aware of a circuit court that has concluded to the contrary. Although the Ninth Circuit in 2004 held the Board lacked such authority, it reversed itself in 2007 and agreed with three other circuits that the Board does possess such authority. See *Lolong v. Gonzales*, 484 F.3d 1173, 1176 (9th Cir. 2007) (overruling *Molina-Camacho v. Ashcroft*, 393 F.3d 937 (9th Cir. 2004)).

<sup>21</sup> The proposed rule makes clear that nothing in the regulation prohibits the Board from remanding a case based on new evidence or information obtained after the date of the immigration judge’s decision as a result of identity, law enforcement, or security investigations or examinations, including investigations occurring separate from those required by 8 CFR 1003.47.



between these three views of new evidence on appeal are not clearly delineated and may lead to inconsistent application. *Cf. Ramirez-Alejandro v. Ashcroft*, 319 F.3d 365, 376 (9th Cir. 2003) (“However, the BIA was inconsistent with respect to its treatment of relevant supplemental evidence tendered on appeal. It did not have formal procedures for consideration of such evidence. In some cases, it accepted the evidence; in other cases it remanded for further findings; and in some, like the present case, it declared itself precluded from entertaining the evidence.”). Their lack of clarity also allows gamesmanship on appeal—*e.g.*, a respondent whose application is denied might seek additional evidence to present on appeal in order to procure a second attempt at establishing eligibility, even though such evidence should have been presented in the first instance. Although a motion to remand must “be based on new, previously unavailable” evidence, *Matter of W-Y-C- & H-O-B-*, 27 I&N Dec. 189, 192 (BIA 2018), respondents frequently seek remands based on evidence that could have been submitted to the immigration judge in the first instance. Consequently, to eliminate confusion, avoid inconsistent results, and encourage the presentation of all available and probative evidence at the trial level before an immigration judge, the Department believes it is appropriate to establish a clearer, bright-line rule regarding the submission of new evidence on appeal.

Prohibiting the BIA from considering new evidence on appeal as a ground for remand is in keeping with the general authority of EOIR adjudicators to manage the filing of applications and collection of relevant documents. Additionally, this prohibition reduces the likelihood of the need for a remand to the immigration court given the BIA’s general inability to engage in factfinding about the newly proffered evidence. The proposed exceptions cover situations in which the need for a remand due to new evidence—*e.g.*, to address an issue of alienage or removability—overrides any other consideration because the new evidence calls into question the availability or scope of proceedings in the first instance. In all other situations, the potential for gamesmanship, the need to ensure that evidence is heard in a timely manner at the trial level, and the operational burden of sending the case back to an immigration judge to begin the adjudicatory process anew strongly counsel against allowing the Board to consider allegedly new evidence on direct appeal. Given the

requirement to submit relevant evidence within the deadlines set by the immigration judge and the ability to submit newly discovered or previously unavailable evidence as part of a motion to reopen, the Department believes that these changes are an appropriate means to reduce remands and ensure the BIA is able to move forward independently with as many appeals as possible without further delay.

An immigration judge loses jurisdiction over a motion to reopen that is pending when an appeal of the immigration judge’s decision is filed with the BIA, and an immigration judge lacks jurisdiction over a motion to reopen filed while an appeal is already pending at the BIA. *See* 8 CFR 1003.23(b)(1). The proposed rule would remove 8 CFR 1003.2(c)(4) and eliminate the treatment of motions to reopen in such situations as motions to remand for the same reasons that the proposed rule seeks to establish clearer rules for the submission of new evidence and the handling of remands by the BIA. Due to the requirement to submit relevant evidence within the deadlines set by the immigration judge and the ability to submit newly discovered or previously unavailable evidence as part of a motion to reopen, these changes are an appropriate means to reduce remands and ensure the BIA is able to move forward independently with as many appeals as possible without further delay.

The Department proposes to more clearly delineate the circumstances in which the BIA may engage in factfinding on appeal. Because the BIA is not authorized to consider new evidence on appeal, *see* 8 CFR 1003.1(d)(3)(iv), and because an issue not raised before the immigration judge is waived, *see, e.g., Matter of J-Y-C-*, 24 I&N Dec. 260, 266 n.1 (BIA 2007), the BIA should not have any need to engage in factfinding in the mine run of immigration case appeals, nor should it have a need to remand for further factfinding. To that end, the proposed rule more clearly spells out the limitations on the Board’s ability to remand for additional factfinding, subject to an exception related to factual issues raised by identity, law enforcement, or security investigations or examinations, or other investigations as noted above in footnote 21.

Nevertheless, the Department recognizes that there may be situations in which the Board should engage in factfinding and proposes to clarify limited circumstances in which the Board may do so—*i.e.*, situations in which the Board may take administrative notice of facts that are

not reasonably subject to dispute, such as current events, the contents of official documents outside the record, or facts that can be accurately and readily determined from official government sources and whose accuracy is not disputed. The proposed rule makes clear, however, that if the Board intends to administratively notice a fact outside the record that would be the basis for overturning a grant of relief or protection issued by an immigration judge, the Board must give notice to the parties and an opportunity for them to address the matter.

The Department further proposes to amend the regulations to make clear that the Board may take administrative notice of any undisputed facts contained in the record. There is simply no operational or legal reason to remand a case for factfinding if the record already contains evidence of undisputed facts, and the BIA may appropriately rely on such facts without remanding the case. *See generally Guerrero-Lasprilla v. Barr*, 140 S. Ct. 1062, 1072 (2020) (holding that “the application of a legal standard to established or undisputed facts” is a question of law).<sup>22</sup> To that end, the proposed rule also makes clear that the BIA may affirm the decision of the immigration judge or DHS on any basis supported by the record, including a basis supported by facts that are not disputed.<sup>23</sup>

Finally, the proposed rule would make clear that the BIA cannot remand a case based solely on the “totality of the circumstances.” Although the Board sometimes uses that standard to justify remanding a case, there is no statutory or regulatory basis for this standard. Accordingly, the proposed rule makes clear that the BIA could not employ such a standard in its review.

<sup>22</sup> Facts may be undisputed when the one party proffers them and the opposing party concedes the truth of those facts, *see, e.g., Matter of T-M-H- & S-W-C-*, 25 I&N Dec. 193, 193–94 (BIA 2010), or when they are found by the immigration judge and they are “not meaningfully challenged on appeal,” *Matter of Diaz & Lopez*, 25 I&N Dec. 188, 189 (BIA 2010).

<sup>23</sup> Although the Board is not an Article III appellate tribunal, this rule also follows the longstanding principle of federal appellate review that a reviewing court may affirm a lower court decision on any basis contained in the record. *See, e.g., Richison v. Ernest Group, Inc.*, 634 F.3d 1123, 1130 (10th Cir. 2011) (“We have long said that we may affirm on any basis supported by the record, even if it requires ruling on arguments not reached by the district court or even presented to us on appeal.”); *cf. Helvering v. Gowran*, 302 U.S. 238, 245 (1937) (“In the review of judicial proceedings the rule is settled that, if the decision below is correct, it must be affirmed, although the lower court relied upon a wrong ground or gave a wrong reason.”).

### F. Scope of a Board Remand

When the Board remands a case, it divests itself of jurisdiction unless jurisdiction is expressly retained. *Matter of Patel*, 16 I&N Dec. at 601. When this is done, unless the Board qualifies or limits the remand for a specific purpose, the remand is effective for the stated purpose and for consideration of any and all other matters as appropriate. *Id.* Cases remanded for the completion of identity, law enforcement, or security investigations or examinations pursuant to 8 CFR 1003.47(h) are also treated as general remands, and an immigration judge may consider new evidence in such a remanded case “if it is material, was not previously available, and could not have been discovered or presented at the former hearing.” *Matter of M-D-*, 24 I&N Dec. at 141. Circuit courts have construed *Matter of Patel* to mean that the BIA can only limit the scope of its remand if it (1) expressly retains jurisdiction and (2) qualifies or limits the scope of remand. *Bermudez-Ariza*, 893 F.3d at 688; *Johnson*, 286 F.3d at 701.

Confusion arises, however, because no regulation allows the Board to expressly retain jurisdiction over a remanded case, and the Board rarely, if ever, does so in practice. *See* BIA Practice Manual at 76 (“Once a case has been remanded to the Immigration Judge, the only motion that the Board will entertain is a motion to reconsider the decision to remand.”). Consequently, even though a Board remand may clearly be intended for a limited purpose, the Board’s failure to explicitly state that it is retaining jurisdiction over an appeal while simultaneously remanding the case—consistent with both its practice and the lack of clear regulatory authority to do so—means that the remand is not actually so limited. *See, e.g., Bermudez-Ariza*, 893 F.3d at 688–89 (“We think it likely that the BIA limited the scope of remand to a specific purpose in this case by stating that it was remanding ‘for further consideration of the respondent’s claim under the Convention Against Torture.’ That said, the BIA’s remand order nowhere mentioned jurisdiction, much less expressly retained it. Thus, irrespective of whether the BIA qualified or limited the scope of remand, the IJ had jurisdiction to reconsider his earlier decisions . . .”).

Put differently, even if the Board clearly indicates that the remand is for a limited purpose, most—if not all—of its remands would be interpreted to be general remands allowing for consideration of issues well beyond the

intended scope of the remand.

Consequently, even where the Board clearly intends a remand to be for a limited purpose, an immigration judge faces potential confusion regarding the scope of the remand and will often treat the order as a general remand that would allow consideration of other issues. *See id.* (a remand to consider a claim under the CAT does not preclude consideration of an asylum claim because the Board did not specifically reserve jurisdiction); *see also Matter of M-D-*, 24 I&N Dec. at 141–42 (a remand for completion of background checks for one application does not preclude consideration of new evidence for another application).

To eliminate this confusion for immigration judges, the Department proposes to amend the regulations to make it clear that the Board may limit the scope of a remand while simultaneously divesting itself of jurisdiction on remand.<sup>24</sup> Thus, a remand for a limited purpose—e.g., the completion of identity, law enforcement, or security investigations or examinations—would be limited solely to that purpose consistent with the Board’s intent, and the immigration judge would be precluded from considering any issues beyond the scope of the remand.

### G. Immigration Judge Quality Assurance Certification of a BIA Decision

To ensure the quality of Board decision-making, the Department proposes to allow immigration judges to certify BIA decisions reopening or remanding proceedings for further review by the Director in situations in which the immigration judge alleges that the BIA made an error. Currently, there is no clear mechanism to efficiently address concerns regarding errors made by the BIA in reopening or remanding proceedings. Although parties may file a motion to reconsider, that process is cumbersome, time-consuming, and may not fully address the alleged error. If the error inures to the favor of DHS, the respondent must again wait for an order of removal in order to bring another appeal, either to the BIA or to federal court through a petition for review. If the error inures to the favor of the respondent, DHS has no effective mechanism of correcting the error, except through another hearing and an appeal to the BIA. Additionally, an erroneous remand by the BIA inappropriately affects an immigration

judge’s performance evaluation by affecting that judge’s remand rate, which is a component of the judge’s performance evaluation. Overall, an immigration judge is in the best position to identify an error made by the BIA and to seek to remedy it expeditiously without needlessly placing additional burdens on the parties. Consequently, the Department has determined that it is appropriate to ensure immigration judges have a mechanism through which they can request the correction of errors by the Board and thereby improve the quality of adjudications as whole.

The Department’s proposal is limited only to cases in which the immigration judge articulates a specific error allegedly committed by the Board within a narrow set of criteria: (1) The Board decision contains a typographical or clerical error affecting the outcome of the case; (2) the Board decision is clearly contrary to a provision of the INA, any other immigration law or statute, any applicable regulation, or a published, binding precedent; (3) the Board decision is vague, ambiguous, internally inconsistent, or otherwise did not resolve the basis for the appeal; or (4) a material factor pertinent to the issue(s) before the immigration judge was clearly not considered in the Board decision. These criteria are used in similar circumstances at other adjudicatory agencies, e.g., HALLEX I–3–6–10 (delineating criteria for protests of decisions by SSA ALJs or administrative appellate judges), and they are intended to strike an appropriate balance in situations in which errors by the Board should be corrected as quickly as possible.

The Department’s proposal also outlines three procedural criteria that an immigration judge must follow in order to certify a Board decision for review: (1) The certification order must be issued within 30 days of the Board decision if the alien is not detained and within 15 days of the Board decision if the alien is detained; (2) the immigration judge, in the certification order, must specify the regulatory basis for the certification and summarize the underlying procedural, factual, or legal basis; and (3) the immigration judge must provide notice of the certification to both parties. To ensure a neutral arbiter between the immigration judge and the Board, such certification orders would be reviewed by the Director. In reviewing such orders, the Director would have delegated authority from the Attorney General similar to that of the Board but would be limited in deciding the merits of the case. For a case certified to the Director, the Director would be allowed to dismiss

<sup>24</sup> The only exception would be cases in which the Board remands a case to an immigration court due to the court’s failure to forward the administrative record in response to the Board’s request.



the certification and return the case to the immigration judge or to remand the case back to the Board for further proceedings; the Director, however, would not issue an order of removal, grant a request for voluntary departure, or grant or deny an application for relief or protection from removal. Finally, the Department's quality assurance certification process would make clear that it is a mechanism to ensure that BIA decisions are accurate and dispositive—and not a mechanism solely to express disagreements with Board decisions or to lodge objections to particular legal interpretations.

*H. 8 CFR 1003.1(d)(1)(ii) and 1003.10(b)*

Prior to 2012, the Department did not consider 8 CFR 1003.1(d)(1)(ii) or 1003.10(b), or similar language in 8 CFR part 1240, to authorize an immigration judge or the Board to unilaterally administratively close a case over a party's objection. In fact, longstanding Board precedent was clear that an immigration judge was required both to complete a case and to complete it through only one of three avenues: An order of termination, an order of removal, or an order of relief<sup>25</sup> or protection. *Matter of Chamizo*, 13 I&N Dec. at 437.

Further, as previously noted, longstanding Board precedent and well-established administrative law separation-of-function principles strongly oppose placing the immigration judge in the role of the prosecutor and determining which immigration cases should be adjudicated and which ones should not. See, e.g., *Matter of Quintero*, 18 I&N Dec. at 350; cf. *Lopez-Telles v. INS*, 564 F.2d at 1304; *Matter of Silva-Rodriguez*, 20 I&N Dec. at 449–50.

Nevertheless, the Board in 2012 departed from these established precedents without explanation and held that an immigration judge—and by extension, the Board itself—could unilaterally determine which cases should not be adjudicated by administratively closing cases over the objections of one or both parties. *Matter of Avetisyan*, 25 I&N Dec. at 690. In doing so, the Board did not substantively engage with its prior precedent, e.g., *Matter of Chamizo*, *Matter of Quintero*, or *Matter of Roussis*. Rather, it simply asserted—paradoxically and without justification—that its decision would not preclude DHS from pursuing removal proceedings, even though administrative closure, in fact, does

preclude DHS from pursuing the removal proceedings while the administrative closure order is in effect.<sup>26</sup> Compare *Matter of Avetisyan*, 25 I&N Dec. at 694 (“Although administrative closure impacts the course removal proceedings may take, it does not preclude the DHS from . . . pursuing those proceedings . . .”), with *Matter of Amico*, 19 I&N Dec. 652, 654 (BIA 1988) (“When a case is administratively closed, the respondent is allowed . . . to avoid an order regarding his deportability, and the consequences an order of deportation could bring.”). It also did not address regulatory provisions that assign the authority to defer adjudication of cases to the Director, the Board Chairman, and the Chief Immigration Judge—but not to immigration judges or Board members themselves. See 8 CFR 1003.0(b)(1)(ii), 1003.1(a)(2)(i)(C), 1003.9(b)(3). Further, the Board did not acknowledge that, if 8 CFR 1003.1(d)(1)(ii) and 1003.10(b) provided freestanding authority for administrative closures, then other regulatory provisions that do expressly provide for such closures would be superfluous. See, e.g., 8 CFR 1245.13(d)(3)(i) (stating that immigration judges or the BIA “shall, upon request of the alien and with the concurrence of [DHS], administratively close the proceedings”). Finally, the Board did not address the reference in 8 CFR 1003.1(d)(1)(ii) and 1003.10(b) to the “disposition” of cases, which ordinarily connotes a final or dispositive decision, which an order of administrative closure is not. Compare Black's Law Dictionary (11th ed. 2019) (defining “disposition” as “[a] final settlement or determination” (emphasis added)), with *Matter of Avetisyan*, 25 I&N Dec. at 695 (describing the “fact that administrative closure does not result in a final order” as “undisputed”) and *Matter of Amico*, 19 I&N Dec. at 654 n.1 (“The administrative closing of a case does not result in a final order.”).

In 2018, the Attorney General overruled *Matter of Avetisyan* and expressly renounced reliance on 8 CFR 1003.1(d)(1)(ii) and 1003.10(b) as a basis for Board members and immigration judges to utilize a freestanding authority to administratively close cases. See *Matter of Castro-Tum*, 27 I&N Dec. at 284 (“Neither section 1003.10(b) nor section 1003.1(d)(1)(ii) confers the authority to grant administrative

closure. Grants of general authority to take measures ‘appropriate and necessary for the disposition of such cases’ would not ordinarily include the authority to suspend such cases indefinitely. Administrative closure, in fact, is the antithesis of a final disposition. These provisions further direct immigration judges or the Board to resolve matters ‘in a timely fashion’—another requirement that conflicts with a general suspension authority.”)<sup>27</sup> Although the Department continues to maintain that *Matter of Castro-Tum* is the correct reading of the law, it also seeks to codify that determination in the regulations in order to eliminate any residual confusion regarding the scope of 8 CFR 1003.1(d)(1)(ii) and 1003.10(b) and associated regulations in 8 CFR part 1240.

To that end, the Department proposes to amend 8 CFR 1003.1(d)(1)(ii) and 1003.10(b) to make clear that those provisions—and similar provisions in 8 CFR part 1240—provide no freestanding authority for immigration judges or Board members to administratively close immigration cases absent an express regulatory or judicially approved settlement basis to do so. The balance of authority is clear that DHS exercises prosecutorial functions in immigration proceedings and that it is inappropriate for neutral arbiters such as immigration judges or Board members to second-guess DHS prosecution decisions in order to determine which cases should be prosecuted. See, e.g., *Lopez-Telles*, 564 F.2d at 1304; *Matter of Quintero*, 18 I&N Dec. at 350; *Matter of Roussis*, 18 I&N Dec. at 258. Moreover, the regulations make clear that general authority to defer the adjudication of cases lies with EOIR leadership and not with individual Board members or immigration judges themselves. See 8 CFR 1003.0(b)(1)(ii), 1003.1(a)(2)(i)(C), 1003.9(b)(3). Further, as the Attorney General previously noted, interpreting 8 CFR 1003.1(d)(1)(ii) and 1003.10(b) to allow for general authority for adjudicators to administratively close cases would render other regulatory provisions referencing such authority superfluous.

<sup>27</sup> The Board is subject to the decisions of the Attorney General under 8 CFR 1003.1(d)(1)(i), which provides that the Board shall be governed by the provisions and limitations prescribed by applicable law, regulations, and procedures, and by decisions of the Attorney General. Also, section 1003.1(d)(1)(ii) provides that the authority of the Board in adjudicating cases is “[s]ubject to [the] governing standards” in paragraph (d)(1)(i). Immigration judges are similarly subject to the Attorney General's decisions under 8 CFR 1003.10(d).

<sup>25</sup> Relief, as used here, includes voluntary departure, even though such an order is issued with an alternate order of removal. 8 CFR 1240.26(d).

<sup>26</sup> Although DHS could still move to recalendar proceedings after *Matter of Avetisyan*, such recalendar was no longer automatic, and it would be strange to expect an immigration judge to simply recalendar a case upon a motion by DHS that he or she had already determined should not proceed.

Finally, as a policy matter, the changes wrought by *Matter of Avetisyan* simply exacerbated both the extent of the existing backlog of immigration court cases and the difficulty in addressing that backlog in a fair and timely manner. In the six-plus years between the decisions in *Matter of Avetisyan* in 2012 and *Matter of Castro-Tum* in 2018, despite the lowest levels of new case filings by DHS since the early and mid-2000s, the active pending caseload in immigration proceedings increased from 301,250 cases to 715,246 cases and the inactive pending caseload increased from 149,006 cases to 306,785 cases. See EOIR, *Adjudication Statistics: Active and Inactive Pending Cases Between February 1, 2012 and May 17, 2018* (Jan. 30, 2019), <https://www.justice.gov/eoir/page/file/1296536/download>. Similarly, between FY 2012 and FY 2017, the number of completed cases annually fell below 200,000 for the first time in a decade, including dropping below 145,000 for three consecutive years and to the lowest overall number since 1995. EOIR, *Adjudication Statistics: New Cases and Total Completions* (Apr. 15, 2020), <https://www.justice.gov/eoir/page/file/1139176/download>. After averaging approximately 225,000 completions per year in the five full FYs prior to the FY in which *Matter of Avetisyan* was decided, immigration judges averaged only approximately 149,500 completions per year in the five full FYs after it was decided. See *id.* This marked decline in productivity, which is correlated with the increase in the use of administrative closure caused by *Matter of Avetisyan*, unquestionably exacerbated the growth in the pending caseload during that time period.<sup>28</sup>

Additionally, by definition, administrative closure lengthens and delays proceedings because it defers disposition of a case until an unknown and unpredictable date. Although administrative closure removes a case from an immigration court's active calendar, it does not remove the case from the docket. Consequently, the practice of administrative closure does not reduce the overall pending caseload, and the strain on immigration courts due to the volume of cases is the same, regardless of whether administrative closure is available. Moreover,

indefinite delay does not create flexibility in docketing; it merely puts off a decision until an unknown time in the future. Thus, as additional cases continue to accrue while an administratively closed case remains pending, the deferral of a significant number of cases in the present ultimately undermines the ability of an immigration court to address both new cases and postponed cases in the future.<sup>29</sup> Further, the churning of cases required to separate those to administratively close and those to proceed, as well as the likelihood of inconsistent outcomes among immigration judges regarding which cases should proceed and which ones should not, strongly militates against the use of administrative closure as an efficient or fair docket management strategy. Overall, administrative closure does little to manage immigration court dockets effectively and does much to undermine the efficient and timely administration of immigration proceedings.

In short, administrative closure of cases by the immigration judges or the Board, especially the unilateral use of administrative closure, failed as a policy matter and is unsupported by the law; accordingly, the Department proposes to amend 8 CFR 1003.1(d)(1)(ii) and 1003.10(b) to ensure that it is clearly prohibited unless authorized by a Department regulation<sup>30</sup> or a judicially approved settlement agreement.

The Department also proposes to revise §§ 1003.1(d)(1)(ii) and 1003.10(b) for clarity, to provide explicitly that the existing references in those paragraphs to “governing standards” refer to the applicable governing standards as set forth in the existing provisions of §§ 1003.1(d)(1)(i) and 1003.10(d), respectively.

<sup>28</sup> For example, in the first full FY after *Matter of Castro-Tum* was decided, DHS filed the highest number of new immigration cases in the Department's history, 537,793, representing a 70 percent increase over the previous high. EOIR, *Adjudication Statistics: New Cases and Total Completions* (Apr. 15, 2020), <https://www.justice.gov/eoir/page/file/1139176/download>. The need to address both that volume of new cases and the significant volume of cases deferred following the decision in *Matter of Avetisyan*, some of which would have otherwise already been completed, illustrates that the practice of administrative closure makes fair and efficient docket administration harder, not easier.

<sup>30</sup> A regulation applying only to another agency cannot provide authorization for an immigration judge or Board member to administratively close a case. *Matter of Castro-Tum*, 27 I&N Dec. at 277 n.3 (“Regulations that apply only to DHS do not provide authorization for an immigration judge or the Board to administratively close or terminate an immigration proceeding.”).

### I. Sua Sponte Authority

As currently constituted, 8 CFR 1003.2(a) and 8 CFR 1003.23(b)(1) allow the BIA and immigration judges, respectively, to reopen proceedings or reconsider a decision *sua sponte* without regard to the time or number limits that would otherwise apply to motions to reopen or reconsider filed by a party. This *sua sponte* authority is entirely a product of delegated authority from the Attorney General, pursuant to 8 U.S.C. 1103(g)(1)–(2), which is codified in the regulations. See 8 CFR 1003.1(a)(1) (“Board members shall be attorneys appointed by the Attorney General to act as the Attorney General's delegates in the cases that come before them.”); 8 CFR 1003.10(a) (“Immigration judges shall act as the Attorney General's delegates in the cases that come before them.”). Although use of *sua sponte* authority is limited to “exceptional situations,” *Matter of J–J*, 21 I&N Dec. at 984, that term is not defined by statute or regulation. Further, as explained in *Lenis v. United States Attorney General*, “no statute expressly authorizes the BIA to reopen cases *sua sponte*; rather, the regulation at issue derives from a statute that grants general authority over immigration and nationalization matters to the Attorney General, and sets no standard for the Attorney General's decision-making in this context.” 525 F.3d 1291, 1293 (11th Cir. 2008).

Notwithstanding the BIA's disclaimer that *sua sponte* authority “is not meant to be used as a general cure for filing defects or to otherwise circumvent the regulations, where enforcing them might result in hardship,” *Matter of J–J*, 21 I&N Dec. at 984, and despite the Supreme Court's instruction that a *sua sponte* order is one necessarily independent of any party's motion or request, see *Calderon v. Thompson*, 523 U.S. 538, 554 (1998), aliens often invite the BIA and immigration judges to reopen or reconsider a case *sua sponte* where the alien's motion for such an action was untimely or otherwise procedurally improper.<sup>31</sup> See also

<sup>31</sup> Despite this case law to the contrary, the Board has sometimes granted motions using what it erroneously labels as “*sua sponte*” authority. See, e.g., *Matter of Sandra Gabriela Martinez-Reyes*, 2016 WL 6519966 (BIA Sept. 28, 2016) (“Based on the totality of the circumstances in this case, we will grant the respondent's motion to reopen to allow her to pursue relief from removal pursuant to our *sua sponte* authority.”); *Matter of Nana Owusu Poku*, 2016 WL 4120576 (BIA July 8, 2016) (“[W]e are granting the motion to reopen in the exercise of our *sua sponte* authority.”); *Matter of Tania Suyapa Padgett-Zelaya*, 2010 WL 4035400 (Sept. 29, 2010) (“This case was last before us on August 31, 2009, when we denied the respondent's motion to reopen as untimely and numerically barred. The

<sup>28</sup> The Department notes that in the first full FY after *Matter of Castro-Tum* was decided, it completed the highest number of immigration court cases in its history. EOIR, *Adjudication Statistics: New Cases and Total Completions* (Apr. 15, 2020), <https://www.justice.gov/eoir/page/file/1139176/download>. That level of productivity would have been sufficient to reduce the pending caseload in every FY prior to FY 2017. See *id.*

*Gonzales-Veliz v. Barr*, 938 F.3d 219, 227 n.3 (5th Cir. 2019) (“If the BIA does something because an alien requests it to do it, then the BIA’s action cannot be characterized as *sua sponte*.”); *Malukas v. Barr*, 940 F.3d 968, 969 (7th Cir. 2019) (“Reopening in response to a motion is not *sua sponte*; it is a response to the motion and thus subject to the time-and-number limits.”).

Further, eleven federal circuit courts agree that, as a general matter, no meaningful standards exist to evaluate the BIA’s decision not to reopen or reconsider a case based on *sua sponte* authority. See *Tamenut v. Mukasey*, 521 F.3d 1000, 1004 (8th Cir. 2008) (en banc) (per curiam); *Lenis*, 525 F.3d at 1293; *Ali v. Gonzalez*, 448 F.3d 515, 518 (2d Cir. 2006) (per curiam); *Doh v. Gonzales*, 193 F. App’x 245, 246 (4th Cir. 2006) (per curiam); *Enriquez-Alvarado v. Ashcroft*, 371 F.3d 246, 249 (5th Cir. 2004), *overruled on other grounds by Mata v. Lynch*, 576 U.S. 143 (2015); *Harchenko v. INS*, 379 F.3d 405, 411 (6th Cir. 2004); *Calle-Vujiles v. Ashcroft*, 320 F.3d 472, 475 (3d Cir. 2003); *Pilch v. Ashcroft*, 353 F.3d 585, 586 (7th Cir. 2003); *Belay-Gebru v. INS*, 327 F.3d 998, 1000–01 (10th Cir. 2003); *Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002); *Luis v. INS*, 196 F.3d 36, 41 (1st Cir. 1999); *accord Malukas*, 940 F.3d at 970 (“*Gonzalez v. Crosby*, 545 U.S. 524 (2005)] and *Calderon* require us to reject *Malukas*’s position that adding the phrase ‘*sua sponte*’ to an untimely or number-barred motion makes those limits go away and opens the Board’s decision to plenary judicial review. Instead we reiterate the conclusion of *Anaya-Aguilar v. Holder*, 683 F.3d 369, 371–73 (7th Cir. 2012) that, because the Board has unfettered discretion to reopen, or not, *sua sponte*, its decision is not subject to judicial review at all.”).<sup>32</sup> Consequently, Federal

respondent now has filed another motion to reopen based on changed country conditions in Honduras. We will grant the respondent’s motion *sua sponte* and will remand the record to the Immigration Judge for further proceedings consistent with this order.”). The Board’s putative use of its “*sua sponte*” authority in response to a motion highlights the inherent problems in exercising *sua sponte* authority based on procedurally improper motions or requests.

<sup>32</sup> Several circuit courts have concluded that there is a limited exception to this jurisdictional limitation where the BIA’s decision not to exercise its *sua sponte* authority is based on a legally erroneous determination, or where a colorable constitutional issue is raised in a petition for review. See *Bonilla v. Lynch*, 840 F.3d 575, 587–89 (9th Cir. 2016) (citing 8 U.S.C. 1252(a)(2)(D)); *Salgado-Toribio v. Holder*, 713 F.3d 1267, 1271 (10th Cir. 2013); *Zambrano-Reyes v. Holder*, 725 F.3d 744, 751 (7th Cir. 2013); *Plumi v. U.S. Att’y Gen.*, 642 F.3d 155, 160 (3d Cir. 2011); *Mahmood v. Holder*, 570 F.3d 466, 471 (2d Cir. 2009). Otherwise, however, the Board’s choice not to

circuit courts are, in most cases, unable to review decisions not to reopen or reconsider based on the BIA’s or immigration judges’ *sua sponte* authority. See *Tamenut*, 521 F.3d at 1004–05 (collecting cases).

The Board has never utilized genuine *sua sponte* authority—rather than in response to a motion—as the direct basis for any precedential decision.<sup>33</sup> Although it has putatively invoked such authority on occasion—e.g., *Matter of X–G–W–*, 22 I&N Dec. 71, 73 (BIA 1998)—in each case its invocation was in response to a motion rather than a true exercise of its *sua sponte* authority. Further, although it ostensibly used its *sua sponte* authority in response to a motion in 1998 to effectuate a policy change allowing the Board to grant untimely motions to reopen due to a fundamental change in law, see *id.*, it subsequently withdrew from that policy in 2002 due to finality concerns and has not relied on such authority to effectuate policy in the subsequent 18 years, see *Matter of G–C–L–*, 23 I&N Dec. 359, 361 (BIA 2002) (ending the policy of considering untimely motions to reopen asylum claims *sua sponte*). The Department has determined that this one-time, *sui generis* use of *sua sponte* authority to make policy, which was subsequently ended after 4 years and has not been repeated in the subsequent 18 years, does not justify continuing the delegation of such authority from the Attorney General. To the contrary, the Board’s one-time direct use of genuine *sua sponte* authority in a precedential decision, coupled with its more frequent misapplication of the *sua sponte* label, demonstrate the problems with such authority and strongly counsel in favor of withdrawing it.

Given the lack of a meaningful standard to guide a decision whether to order reopening or reconsideration of cases through the use of *sua sponte* authority, the lack of a definition of “exceptional situations” for purposes of exercising *sua sponte* authority, the

exercise its *sua sponte* authority is unreviewable. See, e.g., *Bonilla*, 840 F.3d at 586; *Mahmood*, 570 F.3d at 471. As noted, however, the Board’s authority in these contexts was not genuinely *sua sponte* because it involved the Board ruling on a motion. See *Gonzales-Veliz*, 938 F.3d at 227 n.3 (“If the BIA does something because an alien requests it to do it, then the BIA’s action cannot be characterized as *sua sponte*.”); *Malukas*, 940 F.3d at 969 (“Reopening in response to a motion is not *sua sponte*; it is a response to the motion and thus subject to the time-and-number limits.”).

<sup>33</sup> In 2011, the Board did *sua sponte* reopen a case in an unpublished interim order and then reinstate an appeal following a decision by the Ninth Circuit. Following briefing by both parties, it subsequently issued a precedential decision in the case in 2012. See *Matter of Valenzuela Gallardo*, 25 I&N Dec. 838 (BIA 2012).

resulting potential for inconsistent application or even abuse of this authority, the inherent problems in exercising *sua sponte* authority based on a procedurally improper motion or request, and the strong interest in finality, the Attorney General has concluded that such delegation of *sua sponte* authority, particularly to the extent that it may be used to circumvent timing and numerical limits for such motions, is no longer appropriate. See *Doherty*, 502 U.S. at 323; *Abudu*, 485 U.S. at 107. Although there may be rare instances in which *sua sponte* authority could be appropriately used—e.g., correcting clerical mistakes<sup>34</sup>—the Department has concluded, on balance, that the negative consequences delineated above outweigh any benefits that may accrue as a result of Board members or immigration judges retaining such authority. Accordingly, the regulation would remove the Attorney General’s general delegation of *sua sponte* authority to the BIA and immigration judges to reopen or reconsider cases.

The inherent problems in exercising *sua sponte* authority based on a procedurally improper motion or request, its potential for inconsistent usage and abuse, and the strong interest in bringing finality to immigration proceedings all strongly outweigh its one-time, limited usage over 20 ago. First, as noted, genuine *sua sponte* authority has been used directly by the Board only once in a precedential decision in the past several decades and not at all in a precedential decision since 2002. Second, there is no right by a respondent to the exercise of *sua sponte* authority; to the contrary, the Board maintains “unfettered discretion to reopen, or not, *sua sponte*.” *Malukas*, 940 F.3d at 970. Third, the regulations already contemplate a mechanism for overcoming time and numerical limitations in order to reopen cases, thus making *sua sponte* authority unnecessary, as the time or numerical limitations that would otherwise prompt a request for *sua sponte* reopening do not apply to joint motions to reopen. See 8 CFR 1003.2(c)(3)(iii), 1003.23(b)(4)(iv). Nothing in this proposed rule precludes the parties from filing such joint motions, including in situations in which there has been a relevant change in facts or law. Other regulations similarly provide expressly that the parties may file a joint

<sup>34</sup> The Department is retaining the ability of the Board and immigration judges to use *sua sponte* authority to correct ministerial mistakes or typographical errors or to reissue decisions if service was defective.

motion to circumvent time and number limits, rather than rely on an immigration judge's or the Board's *sua sponte* authority, when an intervening event no longer makes an alien removable. *See, e.g.*, 8 CFR 214.11(d)(9)(ii), 214.14(c)(5)(i) (both noting that the parties may file a joint motion to reopen an order of removal issued by an immigration judge in order to overcome any time or number bars when an alien has received a nonimmigrant visa subsequent to the issuance of the removal order). Moreover, nothing in this proposed rule precludes the ability of a respondent to argue, in an appropriate case, that a time limit is inapplicable due to equitable tolling. In short, given the exceptional nature of a situation required to invoke *sua sponte* authority in the first instance, the general lack of use of genuine *sua sponte* authority since 2002, and the availability of multiple other avenues to reopen or reconsider cases and to alleviate the hardships imposed by time and number deadlines, the Attorney General no longer sees a need to retain the delegation of *sua sponte* authority to the Board or to immigration judges as either a matter of law or policy.

In addition, the Department recognizes that the Board may have cited its *sua sponte* authority to reopen—albeit typically in response to a motion rather than a genuine *sua sponte* situation—in circumstances where an alien is no longer removable due, for example, to an intervening change in law or the vacatur of a criminal conviction on the merits. To ensure that aliens whose removability is vitiated *in toto* prior to the execution of the removal order retain a mechanism for reopening their proceedings, the Department proposes to amend the regulations to allow the filing of a motion to reopen, notwithstanding the time and number bars, when an alien claims that an intervening change in law or fact renders the alien no longer removable at all and the alien has exercised diligence in pursuing his or her motion.<sup>35</sup> This amendment is consistent with current case law allowing the equitable tolling of the time and number bars for motions to

reopen in exceptional circumstances when an alien has shown diligence in pursuing the claim. *See, e.g., Avila-Santoyo v. U.S. Att'y Gen.*, 713 F.3d 1357, 1363–64 & n.2 (11th Cir. 2013). To ensure consistency of application regarding both what constitutes a change in law or fact and whether an alien exercised diligence, the proposed rule provides that such a motion could be granted only by a three-member panel at the Board level. Similarly, the Department proposes to amend the regulations to allow the filing of a motion to reopen, notwithstanding the time and number bars, when an individual claims that he or she is a United States citizen or national in recognition that the law provides jurisdiction only in removal proceedings for aliens. *See* 8 U.S.C. 1229a(a)(1).

Finally, the Department proposes to amend the regulations to clarify that the filing of a motion to reopen with the Board by DHS in removal proceedings or in proceedings initiated pursuant to 8 CFR 1208.2(c) is not subject to the time and numerical limits applicable to such motions. Such an allowance already exists for DHS motions to reopen at the immigration court level, 8 CFR 1003.23(b)(1), and extending that allowance to DHS motions filed with the Board would provide greater parity between proceedings at the immigration court level and the appellate level. Moreover, doing so would ameliorate the effects of the withdrawal of *sua sponte* authority to reopen cases from the Board for DHS just as the exceptions discussed above ameliorate any deleterious effects of the withdrawal of such authority for respondents.

#### J. Certification Authority

Current regulations authorize the Board to certify cases to itself for review but provide no standards for deciding when to exercise that authority. 8 CFR 1003.1(c). Although the Attorney General has concluded that the Board's self-certification authority is similar to its *sua sponte* authority and, thus, should be used only in “exceptional” situations, *Matter of Jean*, 23 I&N Dec. at 380 n.9, the certification authority is subject to inconsistent application for the same reasons as the *sua sponte* authority. Further, unlike certification requests made by DHS or an immigration judge, which require notice to the parties, 8 CFR 1003.7, the Board may certify a case without notice if it concludes that the parties have been given a fair opportunity to make representations before the Board regarding the case, 8 CFR 1003.1(c). In those circumstances, however, the

parties would not have had the opportunity to address whether self-certification by the Board is appropriate—*i.e.*, whether the case presents an exceptional situation—because they would have had no way of knowing that the Board was considering taking the case through self-certification.

Additionally, despite clear language requiring the Board to have jurisdiction over the underlying matter in the first instance in order to exercise its certification authority, *see* 8 CFR 1003.1(c) (restricting self-certification to cases arising under the Board's appellate jurisdiction), the Board often reverses that principle and uses its certification authority to avoid deciding a question of jurisdiction. *Compare Matter of Sano*, 19 I&N Dec. at 300 (holding that the use of certification authority to circumvent a jurisdictional requirement is “inappropriate”), *with, e.g., Matter of Carlos Daniel Jarquin-Burgos*, 2019 WL 5067262, at \*1 n.1 (BIA Aug. 5, 2019) (“On March 29, 2019, we accepted the respondent's untimely appeal. To further settle any issues of jurisdiction, we accept this matter on appeal pursuant to 8 CFR 1003.1(c).”), *Matter of Daniel Tipantasig-Matzaquiza*, 2016 WL 4976725, at \*1 (BIA Jul. 22, 2016) (“To settle any issues regarding jurisdiction, we will exercise our discretionary authority to accept this appeal on certification. *See* 8 CFR 1003.1(c).”), and *Matter of Rafael Antonio Hanze Fuentes*, 2011 WL 7071021, at \*1 n.1 (BIA Dec. 29, 2011) (“In order to avoid any question regarding our jurisdiction over this appeal, we take jurisdiction over this matter by certification pursuant to 8 CFR 1003.1(c).”).

Similarly, despite the clear directive in *Matter of Jean* that certification should be used only in “exceptional” situations, the Board frequently uses its certification authority in otherwise unexceptional circumstances, such as to avoid finding appeals untimely, or to simply correct filing defects. *Matter of Alhassan Kamara*, 2015 WL 4873247, at \*1 (BIA Jun. 30, 2015) (“To resolve any issue of timeliness, we adjudicate the appeal in the exercise of our certification authority. 8 CFR 1003.1(c).”); *Matter of Mohamed Saad Maroof*, 2006 WL 3712722, at \*1 n.1 (BIA Nov. 17, 2006) (“We will take this appeal on certification to correct any filing defects. *See* 8 CFR 1003.1(c)(2006).”); *Matter of Edwin R. Jimenez*, 2005 WL 3016034, at \*1 n.1 (BIA Aug. 8, 2005) (“To resolve any questions of timeliness, we will assume jurisdiction over the appeal by certification pursuant to our authority

<sup>35</sup> This provision would apply only when the intervening change vitiated the alien's removability completely—an alien charged with multiple removability grounds would remain subject to the time and number bars unless the intervening change vitiated each removability ground. Additionally, this provision would apply only to grounds of removability. Aliens arguing that an intervening change in law or fact affected their eligibility for relief or protection from removal would remain subject to existing regulatory provisions on such motions.

under 8 CFR 1003.1(c).”); *cf. Matter of Liadov*, 23 I&N Dec. 990, 993 (BIA 2006) (short delays in filing timely are not “rare” or “extraordinary” such that the acceptance of an appeal through the Board’s certification authority would be warranted).

Due to the lack of clear governing standards, the lack of a definition of “exceptional” situations for purposes of utilizing self-certification, the potential for lack of notice of the Board’s use of certification authority, the overall potential for inconsistent application and abuse of this authority, and the strong interest in finality, the Attorney General has concluded that such delegation of self-certification authority to the BIA, particularly to the extent it may be used to circumvent appellate filing deadlines, is no longer appropriate. Accordingly, for reasons similar to those underlying the withdrawal of the delegation of *sua sponte* authority, this rule would withdraw the delegation of certification authority from the Board. No other aspect of the regulations governing certification of cases to the Board would be affected.<sup>36</sup>

#### K. Timeliness of Adjudication of BIA Appeals

The number of cases pending before EOIR has increased tremendously, particularly in recent years. EOIR had approximately 130,000 pending cases in 1998. At the end of FY 2019, EOIR had 1,079,168 pending cases, up from 430,123 at the end of FY 2014 and 262,748 at the end of FY 2010. *See EOIR, Adjudication Statistics: Pending Cases* (Apr. 15, 2020), <https://www.justice.gov/eoir/page/file/1242166/download>. Put differently, EOIR’s current pending caseload has increased more than 800 percent in the past 21 years.

With the increase in pending cases at the immigration courts, EOIR has recently begun to have a corresponding increase in the number of appeals of immigration judge decisions. In FY 2019, 54,092 case appeals were filed with the BIA—an increase of over 250 percent from FY 2015, when 15,423 case appeals were filed. The BIA ended FY 2019 with 65,201 pending case appeals, up from 12,677 at the end of FY 2017. *EOIR, Adjudication Statistics: Case Appeals1 Filed, Completed, and*

*Pending* (Oct. 23, 2019), <https://www.justice.gov/eoir/page/file/1198906/download>. Paradoxically, although the Board operated with between 16 and 21 adjudicators for all of FY 2018, adjudications of case appeals actually fell by roughly 500 from FY 2017 when it had no more than 16 adjudicators for nearly all of the fiscal year. *Id.* Case appeal completions fell yet again in FY 2019, by nearly 1500, even though the Board operated with at least 18 adjudicators—and, at times, as many as 21 total—for the entire fiscal year. *Id.* Overall, Board productivity in adjudicating case appeals has declined by 33 percent since FY 2008.<sup>37</sup> Although the Department has utilized multiple temporary Board members and increased the number of permanent Board members in 2018, *see* Expanding the Size of the Board of Immigration Appeals, 83 FR 8321 (Feb. 27, 2018), an increase in the number of adjudicators is not necessarily commensurate with an increase in productivity. Due to these concerns about BIA productivity—and the need to ensure that improved productivity at the immigration court level is not subverted by inefficient practices at the administrative appellate level—the Department believes it is necessary to again review the BIA’s regulations to reduce any unwarranted delays in the appeals process and to ensure that the BIA’s, as well as the rest of EOIR’s, resources are used efficiently.

To that end, the Department is changing the BIA’s case management system to ensure that all appeals are being adjudicated in a timely manner. Currently, except in limited circumstances, appeals assigned to a single Board member are expected to be decided within 90 days of completion of the record on appeal, whereas appeals assigned to a three-member panel are to be decided within 180 days of assignment to the panel (including any additional opinion by a member of the panel), which may occur well after the record on appeal is complete. 8 CFR 1003.1(e)(8)(i). Although the Board maintains a single case management system to screen cases for either single-member or three-member panel disposition, the current regulatory language sets timeliness deadlines based on different criteria, which may cause inefficiencies and potential delays. *See* 8 CFR 1003.1(e). It has also caused confusion regarding how the Board tracks cases and raised questions about

the accuracy of the Board’s statistics and the timeliness of the Board’s adjudications. *See* DOJ OIG Report at 50 (“Further, EOIR’s tracking method for the length of appeals does not include total processing times for appeals. Depending on the type of review—one or three board members—EOIR counts the appeal processing time from different starting points. These different starting points significantly skew the reported achievement of its completion goals for appeals and impede EOIR’s effective management of the appeals process. The total number of days taken to review and decide appeals, not EOIR’s count of days, represents how long the aliens and the DHS wait for decisions on their appeals.”). Because the number of appeals has risen considerably in recent years, the Department believes it is important to eliminate all potential inefficiencies to ensure that appeals are completed in a timely manner. Consequently, the Department is changing the regulatory language to harmonize the time limits for adjudicating appeals so that both the 90- and 180-day deadlines are set from the same starting point—when the record is complete.

The Department is also implementing additional changes to ensure that appeals are adjudicated in a timely manner. For example, the proposed rule establishes specific time frames for review by the screening panel, processing of transcripts, issuance of briefing schedules, and review by a single Board member to determine whether a single member or a three-member panel should adjudicate the appeal, none of which are considered in the current regulations or tracked effectively to prevent delays. It also adds tracking and accountability requirements for the Board Chairman in cases where the adjudication of appeals must be delayed to ensure that no appeals are overlooked or lost in the process. It also establishes specific time frames for the adjudication of summary dismissals, providing substance to the current language that such cases be identified “promptly” by the screening panel. *See* 8 CFR 1003.1(d)(2)(ii). Additionally, it establishes specific time frames for the adjudication of interlocutory appeals, which are not currently addressed in the regulations, except insofar as they may be referred to a three-member panel for review. The BIA does not normally entertain interlocutory appeals, and neither transcripts nor briefing schedules are generally issued for interlocutory appeals. *See* BIA Practice Manual at 63, 70–71. Consequently, there is no reason

<sup>36</sup> On November 25, 2002, the President signed into law the Homeland Security Act of 2002, creating the new DHS and transferring the functions of the former INS to DHS. Public Law 107–296, tit. IV, subtitles D, E, F, 116 Stat. 2135, 2192 (Nov. 25, 2002). Accordingly, this rule also replaces outdated references to the INS in 8 CFR 1003.1(c) and 1003.7 with references to DHS.

<sup>37</sup> The Board completed 29,433 case appeals in FY 2008, but only 19,449 in FY 2019. *See EOIR, Case Appeals Filed, Completed, and Pending* (Oct. 23, 2019), <https://www.justice.gov/eoir/page/file/1198906/download>.

that those appeals also cannot be addressed promptly within 30 days, unless the BIA determines that they involve “important jurisdictional questions regarding the administration of the immigration laws or recurring questions in the handling of cases by Immigration Judges” amenable to review by a three-member panel. *Id.* at 70 (citing *Matter of K-*, 20 I&N Dec. 418 (BIA 1991)). Finally, these changes will ensure that EOIR will “improve its collecting, tracking, and reporting of BIA appeal statistics to accurately reflect actual appeal processing times,” as has previously been recommended. DOJ OIG Report at 50.

Further, the Department is cognizant that, absent a regulatory basis for delay,<sup>38</sup> there is no reason for a typical appeal to take more than 335 days to adjudicate—including time for transcription, briefing, and adherence to the existing 90- or 180-day time frames for decision.<sup>39</sup> The rule therefore also

<sup>38</sup> For example, in exigent circumstances, the BIA Chairman may grant a 60-day extension of the 90- and 180-day adjudicatory processing deadlines currently in the regulations. 8 CFR 1003.1(e)(8)(ii). Additionally, the BIA may place a case on hold while it awaits the completion or updating of all identity, law enforcement, or security investigations or examinations. 8 CFR 1003.1(d)(6)(ii)(B). The Chairman may also hold a case pending a decision by the U.S. Supreme Court or a U.S. Court of Appeals, in anticipation of a Board *en banc* decision, or in anticipation of an amendment to regulations. 8 CFR 1003.1(e)(8)(iii). The proposed rule amends this last category by removing a pending Court of Appeals decision and a pending regulatory action as bases for a hold. Unlike Supreme Court decisions, which are typically issued by the end of a fixed term, and Board *en banc* decisions, which are subject to regulatory timelines discussed herein, neither regulatory actions nor Court of Appeals decisions have a fixed deadline and may stretch out for years, making them poor bases to warrant an adjudicatory delay. In recognition of the need for efficient decision-making and finality in case adjudications, the rule also places a 120-day limit on the length of a hold imposed by the Chairman.

<sup>39</sup> The median time for all appeals from immigration judge decisions in FY 2019 was 168 days. Excluding interlocutory appeals, appeals from custody redetermination decisions, and appeals from decisions on motions to reopen, the median time to completion for case appeals in FY 2019 was 323 days, which is consistent with the timeline outlined in the proposed rule. More specifically, the proposed rule provides that screening should occur no later than 14 days after the notice to appeal is filed with the Board. If there is funding and vendor availability, the transcript should be ordered within 7 days, and transcription takes 14 to 28 days. The briefing schedule is then issued within seven days of receipt of the transcript. Completion of briefing requires, at most, 63 days under the current regulation and would require less time under the proposed rule. Once the record is complete, a single panel member should review the case within 14 days to determine whether it should be referred to a three-member panel or adjudicated by that single Board member. If it is referred, the panel has 180 days to decide the appeal. Combined, even under the current regulations, a typical appeal should take no longer than 313 days to adjudicate from the date it was filed, though the proposed rule provides an

ensures timely dispositions by referring appeals pending beyond that mark to the EOIR Director for adjudication.<sup>40</sup> As indicated in 8 CFR 1003.1(e)(8)(vi), these changes reflect management directives in favor of timely dispositions and do not establish any substantive or procedural rights. Because most appeals are already decided within these parameters, unless there is a regulatory or policy basis for delay, the Department expects few, if any, appeals to need to be referred to the Director. Nevertheless, such authority is necessary to ensure management oversight consistent with the Director’s authority to “set priorities or time frames for the resolution of cases” and the Director’s responsibility “to ensure the efficient disposition of all pending cases.” 8 CFR 1003.0(b)(1)(ii).<sup>41</sup> Moreover, this delegation of authority to the Director does not change the applicable law that the Board or the Director must apply in deciding each appeal, nor does it change appellate briefing procedures, which would be expected to be completed before any case would need to be referred. Rather, this delegation ensures that any unwarranted delays in the adjudication of appeals are eliminated and any bottlenecks in the Board’s processing of appeals are minimized or eliminated.

Finally, the rule removes and reserves 8 CFR 1003.1(e)(8)(iv). That provision allowed the BIA Chairman to grant an extension of 120 days to the 90- and 180-day adjudicatory time frames for cases ready for adjudication as of September 25, 2002, that had not been completed within those time frames.

additional allowance to account for miscellaneous delays that may occur due to human error or movement of the record of proceeding from one location to another.

<sup>40</sup> The Attorney General recently delegated authority to the EOIR Director to potentially adjudicate appeals that have exceeded the established 90- and 180-day regulatory time limits, unless the Board Chairman assigns the case to himself or the Vice Chairman. Organization of the Executive Office for Immigration Review, 84 FR 44537, 44538 (Aug. 26, 2019). As the DOJ OIG previously pointed out, however, those time limits count only part of the overall appellate processing time, “and the parts that are excluded represent a significant portion of the processing time.” DOJ OIG Report at 48. The narrowness of the prior delegation and the lack of an overall timeliness metric for deciding appeals that accounts for all of the appellate processing time limits the utility of that delegation in addressing delays in the overall appeals process.

<sup>41</sup> The Director is also responsible for providing “comprehensive, continuing training and support” for, *inter alia*, EOIR staff “in order to promote the quality and consistency of adjudications.” 8 CFR 1003.0(b)(1)(vii). Consequently, the Director will ensure that any support staff assisting in preparing cases for adjudication under this delegation of authority are sufficiently trained. Additionally, the proposed rule makes clear that the Director may not delegate this authority further to any employee within EOIR.

That provision is no longer necessary because the relevant dates and time frames have long since passed.

#### *L. Forwarding the Record on Appeal*

The Department is also revising 8 CFR 1003.5 regarding the forwarding of the record of proceedings in an appeal to ensure that the transcription process does not cause any unwarranted delays. The Department notes that it is not necessary for immigration judges to affirmatively review, potentially revise, and then approve the transcripts of oral decisions; EOIR utilizes reliable digital audio recording technology that produces clear audio recordings, and the additional 7- or 14-day review period creates an unnecessary delay in the adjudication of appeals. Moreover, because errors should not be corrected during the review, *see, e.g., Mamedov v. Ashcroft*, 387 F.3d 918, 920 (7th Cir. 2004) (“[I]n general it is a bad practice for a judge to continue working on his opinion after the case has entered the appellate process . . . .”); because EOIR already has a procedure for the parties to address defective or inaccurate transcripts on appeal, BIA Practice Manual at 51–52; and because the BIA may remedy defects through a remand for clarification or correction if necessary, 8 CFR 1003.1(e)(2), there is no operational reason for immigration judges to continue to review transcripts of their decisions solely for minor typographical errors. *Accord Witjaksono v. Holder*, 573 F.3d 968, 976 (10th Cir. 2009) (“When an alien follows these procedures [under the regulations and the BIA Practice Manual], the BIA is able to evaluate whether the ‘gaps [in the transcript] relate to matters material to [the] case and [whether] they materially affect [the alien’s] ability to obtain meaningful review.’ Moreover, if the BIA concludes that a defective transcript did not cause prejudice, these procedures create a record that facilitates the meaningful and effective *judicial* review to which a petitioner is entitled.” (first alteration added) (internal citation omitted)). Further, such review also takes immigration judges away from their primary duty of adjudicating cases expeditiously and impartially, consistent with the law. Finally, federal courts have criticized the practice of immigration judges revising transcripts after an appeal has been filed. *See Mamedov*, 387 F.3d at 920. Accordingly, there is simply no reason to retain the requirement that immigration judges continue to review transcripts, and removing this requirement will also eliminate the possibility of the transcript being amended incorrectly, even



inadvertently, after a decision has been rendered.

Further, the Department notes that the section regarding the forwarding of the physical record of proceeding to the BIA is being rendered obsolete by the EOIR Court & Appeals System (“ECAS”), which has been deployed to 14 immigration courts and adjudication centers and is currently in the midst of a nationwide rollout following a successful pilot.<sup>42</sup> See EOIR Electronic Filing Pilot Program, 83 FR 29575 (June 25, 2018); EOIR, *EOIR Launches Electronic Filing Pilot Program* (July 19, 2018), <https://www.justice.gov/eoir/pr/eoir-launches-electronic-filing-pilot-program>; EOIR Policy Memorandum 20–13, *EOIR Practices Related to the COVID–19 Outbreak* 3 n.7 (June 11, 2020), <https://www.justice.gov/eoir/page/file/1284706/download>. ECAS will enable EOIR to maintain fully electronic records of proceeding, which in turn will enable the BIA to directly access all relevant records in an appeal from the decision of an immigration judge without the need for court staff to forward the record. In short, there is no basis to retain 8 CFR 1003.5(a) in its current format, and the Department is revising it accordingly.<sup>43</sup>

Finally, 8 CFR 1003.5(b) describes procedures regarding appeals from DHS decisions that are within the BIA’s appellate jurisdiction. See 8 CFR 1003.1(b)(4)–(5). Much of the language in that paragraph concerns authority exercised by DHS officers rather than by EOIR. Accordingly, EOIR is proposing to delete language that is not applicable to its adjudicators and modifying the regulatory text accordingly. In doing so, EOIR also proposes replacing outdated references to the INS. See *supra*, note 36. The changes do not substantively affect the Board’s adjudication of any appeals subject to 8 CFR 1003.5(b).

#### IV. Regulatory Requirements

##### A. Regulatory Flexibility Act

The Department has reviewed this rule in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) and has determined that this rule will not have a significant economic impact on a substantial number of small entities. The rule will not regulate “small entities,” as that term is defined in 5

U.S.C. 601(6). The rule will not economically impact representatives of aliens in immigration proceedings. It does not limit the fees they may charge, or the number of cases a representative may ethically accept under the rules of professional responsibility.

##### B. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (adjusted annually for inflation), and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

##### C. Congressional Review Act

This proposed rule is not a major rule as defined by section 804 of the Congressional Review Act. 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

##### D. Executive Order 12866 and Executive Order 13563

The Department has determined that this rule is a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review. Accordingly, this rule has been submitted to the Office of Management and Budget for review.

The Department certifies that this regulation has been drafted in accordance with the principles of Executive Order 12866 and Executive Order 13563. Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

The Department believes that shortening the time for briefing extensions and schedules and clarifying the standards for review will help reduce the number of cases pending

before EOIR and will enable the BIA to adjudicate more appeals annually. The Department believes the costs to the public will be negligible, if any, because the basic briefing procedures will remain the same, because current BIA policy already disfavors multiple briefing extension requests, and because the BIA is already prohibited from considering new evidence on appeal. The proposed rule does not impose any new costs, and most, if not all, of the proposed rule is directed at internal case processing. Any changes contemplated by the rule would have no apparent impact on the public but would substantially improve both the quality and efficiency of BIA appellate adjudications.

##### E. Executive Order 13132 (Federalism)

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

##### F. Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

##### G. Paperwork Reduction Act

This rule does not propose new or revisions to existing “collection[s] of information” as that term is defined under the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320.

#### List of Subjects

##### 8 CFR Part 1003

Administrative practice and procedure, Immigration.

##### 8 CFR Part 1240

Administrative practice and procedure, Aliens.

Accordingly, for the reasons set forth in the preamble, the Department proposes to amend 8 CFR parts 1003 and 1240 as follows:

#### PART 1003—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

■ 1. The authority citation for part 1003 continues to read as follows:

<sup>42</sup> The rollout was temporarily paused on March 16, 2020, due to the outbreak of COVID–19 in the United States and will resume at an appropriate time.

<sup>43</sup> The Department is also streamlining the language in § 1003.5(a) to better reflect responsibility for ensuring the timely processing of transcripts consistent with the EOIR Director’s authority to ensure the efficient disposition of all pending cases. 8 CFR 1003.0(b)(1)(iii).

**Authority:** 5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101, 1103, 1154, 1155, 1158, 1182, 1226, 1229, 1229a, 1229b, 1229c, 1231, 1254a, 1255, 1324d, 1330, 1361, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No. 2 of 1950; 3 CFR, 1949–1953 Comp., p. 1002; section 203 of Pub. L. 105–100, 111 Stat. 2196–200; sections 1506 and 1510 of Pub. L. 106–386, 114 Stat. 1527–29, 1531–32; section 1505 of Pub. L. 106–554, 114 Stat. 2763A–326 to –328.

■ 2. Amend § 1003.1 by:

■ a. Revising paragraphs (c), (d)(1)(ii), and (d)(3)(iv);

■ b. Adding paragraph (d)(3)(v);

■ c. Revising paragraphs (d)(6)(ii) through (iv), (d)(7), (e)(1), (e)(8) introductory text, and (e)(8)(i) and (iii);

■ d. Removing and reserving paragraph (e)(8)(iv);

■ e. Adding four sentences at the end of paragraph (e)(8)(v); and

■ f. Adding paragraph (k).

The revisions and additions read as follows:

**§ 1003.1 Organization, jurisdiction, and powers of the Board of Immigration Appeals.**

\* \* \* \* \*

(c) *Jurisdiction by certification.* The Secretary, or any other duly authorized officer of DHS, or an immigration judge may in any case arising under paragraph (b) of this section certify such case to the Board for adjudication.

(d) \* \* \*

(1) \* \* \*

(ii) Subject to the governing standards set forth in paragraph (d)(1)(i) of this section, Board members shall exercise their independent judgment and discretion in considering and determining the cases coming before the Board, and a panel or Board member to whom a case is assigned may take any action consistent with their authorities under the Act and the regulations as is appropriate and necessary for the disposition of the case. Nothing in this paragraph shall be construed as authorizing the Board to administratively close or suspend adjudication of a case unless a regulation promulgated by the Department of Justice or a previous judicially approved settlement expressly authorizes such an action. Only the Director or Chief Appellate Immigration Judge may direct the deferral of adjudication of any case or cases by the Board.

\* \* \* \* \*

(3) \* \* \*

(iv)(A) The Board will not engage in factfinding in the course of deciding appeals, except that the Board may take administrative notice of facts that are not reasonably subject to dispute, such as

(1) Current events;

(2) The contents of official documents outside the record;

(3) Facts that can be accurately and readily determined from official government sources and whose accuracy is not disputed; or

(4) Undisputed facts contained in the record.

(B) If the Board intends to rely on an administratively noticed fact outside of the record, such as those indicated in paragraphs (d)(3)(iv)(A)(1) through (3) of this section, as the basis for reversing an immigration judge's grant of relief or protection from removal, it must provide notice to the parties of its intent and afford them an opportunity of not less than 14 days to respond to the notice.

(C) The Board shall not *sua sponte* remand a case for further factfinding unless the factfinding is necessary to determine whether the immigration judge had jurisdiction over the case.

(D) Except as provided in paragraph (d)(6)(iii) or (d)(7)(v)(B) of this section, the Board shall not remand a case for additional factfinding unless

(1) The party seeking remand preserved the issue by presenting it before the immigration judge;

(2) The party seeking remand, if it bore the burden of proof before the immigration judge, attempted to adduce the additional facts before the immigration judge;

(3) The additional factfinding would alter the outcome or disposition of the case;

(4) The additional factfinding would not be cumulative of the evidence already presented or contained in the record; and

(5) One of the following circumstances is present in the case:

(i) The immigration judge's factual findings were clearly erroneous, or

(ii) Remand to DHS is warranted following *de novo* review.

(v) The Board may affirm the decision of the immigration judge or the Department of Homeland Security on any basis supported by the record, including a basis supported by facts that are not reasonably subject to dispute, such as undisputed facts in the record.

\* \* \* \* \*

(6) \* \* \*

(ii) Except as provided in paragraph (d)(6)(iv) of this section, if identity, law enforcement, or security investigations or examinations have not been completed or DHS reports that the results of prior investigations or examinations are no longer current under the standards established by DHS, and the completion of the investigations

or examinations is necessary for the Board to complete its adjudication of the appeal, the Board will provide notice to both parties that, in order to complete adjudication of the appeal, the case is being placed on hold until such time as all identity, law enforcement, or security investigations or examinations are completed or updated and the results have been reported to the Board. Unless DHS advises the Board that such information is no longer necessary in the particular case, the Board's notice will notify the alien that DHS will contact the alien to take additional steps to complete or update the identity, law enforcement, or security investigations or examinations only if DHS is unable to independently update the necessary investigations or examinations. The Board's notice will also advise the alien of the consequences for failing to comply with the requirements of this section. DHS is responsible for obtaining biometrics and other biographical information to complete or update the identity, law enforcement, or security investigations or examinations with respect to any alien in detention.

(iii) In any case placed on hold under paragraph (d)(6)(ii) of this section, DHS shall report to the Board promptly when the identity, law enforcement, or security investigations or examinations have been completed or updated. If a non-detained alien fails to comply with necessary procedures for collecting biometrics or other biographical information within 90 days of the Board's notice under paragraph (d)(6)(ii) of this section, the Board shall deem the application abandoned unless the alien shows good cause before the 90-day period has elapsed, in which case the alien should be given no more than an additional 30 days to comply with the procedures. If the Board deems an application abandoned under this section, it shall adjudicate the remainder of the appeal within 30 days and shall enter an order of removal or a grant of voluntary departure, as appropriate. If DHS obtains relevant information as a result of the identity, law enforcement, or security investigations or examinations, including civil or criminal investigations of immigration fraud, DHS may move the Board to remand the record to the immigration judge for consideration of whether, in view of the new information, any pending applications for immigration relief or protection should be denied, either on grounds of eligibility or, where applicable, as a matter of discretion. If DHS fails to report the results of timely-completed or updated identity, law



enforcement, or security investigations or examinations within 180 days of the Board's notice under paragraph (d)(6)(ii) of this section, the Board shall remand the case to the immigration judge for further proceedings under § 1003.47(h).

(iv) The Board is not required to hold a case pursuant to paragraph (d)(6)(ii) of this section if the Board decides to dismiss the respondent's appeal or deny the relief or protection sought.

\* \* \* \* \*

(7) *Finality of decision*—(i) *In general.* The decision of the Board shall be final except in those cases reviewed by the Attorney General in accordance with paragraph (h) of this section. In adjudicating an appeal, the Board possesses authority to issue an order of removal, an order granting relief from removal, an order granting protection from removal combined with an order of removal as appropriate, an order granting voluntary departure with an alternate order of removal, and an order terminating or dismissing proceedings, provided that the issuance of any order is consistent with applicable law. The Board may affirm the decision of the immigration judge or DHS on any basis supported by the record. In no case shall the Board order a remand for an immigration judge to issue an order that the Board itself could issue.

(ii) *Remands.* After applying the appropriate standard of review on appeal, the Board may issue an order remanding a case to an immigration judge or DHS for further consideration based on an error of law or fact, subject to any applicable statutory or regulatory limitations, including paragraph (d)(3)(iv)(D) of this section and the following:

(A) The Board shall not remand a case for further action without identifying the standard of review it applied and the specific error or errors made by the adjudicator below.

(B) The Board shall not remand a case based on the “totality of the circumstances.”

(C) The Board shall not remand a case based on a legal argument not presented below unless that argument pertains to an issue of jurisdiction over an application or the proceedings, or to a material change in fact or law underlying a removability ground or grounds specified in section 212 or 237 of the Act that occurred after the date of the immigration judge's decision, and substantial evidence indicates that change has vitiated all grounds of removability applicable to the alien.

(D) The Board shall not *sua sponte* remand a case unless the basis for such a remand is solely a question of

jurisdiction over an application or the proceedings.

(E) The Board shall not remand a case to an immigration judge solely to consider a request for voluntary departure nor solely due to the failure of the immigration judge to provide advisals following a grant of voluntary departure. In such situations, the Board shall follow the procedures in § 1240.26(k).

(iii) *Scope of the remand.* Where the Board remands a case to an immigration judge, it divests itself of jurisdiction of that case, unless the Board remands a case due to the court's failure to forward the administrative record in response to the Board's request. The Board may qualify or limit the scope or purpose of a remand order without retaining jurisdiction over the case following the remand. In any case in which the Board has qualified or limited the scope or purpose of the remand, the immigration judge shall not consider any issues outside the scope or purpose of that order, unless such an issue calls into question the immigration judge's continuing jurisdiction over the case.

(iv) *Voluntary departure.* The Board may issue an order of voluntary departure under section 240B of the Act, with an alternate order of removal, if the alien requested voluntary departure before an immigration judge, the alien's notice of appeal specified that the alien is appealing the immigration judge's denial of voluntary departure and identified the specific factual and legal findings that the alien is challenging, and the Board finds that the alien is otherwise eligible for voluntary departure, as provided in § 1240.26(k). In order to grant voluntary departure, the Board must find that all applicable statutory and regulatory criteria have been met, based on the record and within the scope of its review authority on appeal, and that the alien merits voluntary departure as a matter of discretion. If the Board does not grant the request for voluntary departure, it must deny the request.

(v) *New evidence on appeal.* (A) Subject to paragraph (d)(7)(v)(B) of this section, the Board shall not receive or review new evidence submitted on appeal, shall not remand a case for consideration of new evidence received on appeal, and shall not consider a motion to remand based on new evidence. A party seeking to submit new evidence shall file a motion to reopen in accordance with applicable law.

(B) Nothing in paragraph (d)(7)(v)(A) of this section shall preclude the Board from remanding a case based on new evidence or information obtained after the date of the immigration judge's

decision as a result of identity, law enforcement, or security investigations or examinations, including civil or criminal investigations of immigration fraud, regardless of whether the investigations or examinations were conducted pursuant to § 1003.47(h) or paragraph (d)(6) of this section, nor from remanding a case to address a question of jurisdiction over an application or the proceedings or a question regarding a ground or grounds of removability specified in section 212 or 237 of the Act.

(e) \* \* \*  
(1) *Initial screening.* All cases shall be referred to the screening panel for review upon the filing of a Notice of Appeal or a motion. Screening panel review shall be completed within 14 days of the filing. Appeals subject to summary dismissal as provided in paragraph (d)(2) of this section, except for those subject to summary dismissal as provided in paragraph (d)(2)(i)(E) of this section, shall be promptly dismissed no later than 30 days after the Notice of Appeal was filed. Unless referred for a three-member panel decision pursuant to paragraph (e)(6) of this section, an interlocutory appeal shall be adjudicated within 30 days of the filing of the appeal.

\* \* \* \* \*

(8) *Timeliness.* The Board shall promptly enter orders of summary dismissal, or other miscellaneous dispositions, in appropriate cases consistent with paragraph (e)(1) of this section. In all other cases, the Board shall promptly order a transcript, if appropriate, within seven days after the screening panel completes its review and shall issue a briefing schedule within seven days after the transcript is provided. If no transcript may be ordered due to a lack of available funding or a lack of vendor capacity, the Chairman shall so certify that fact in writing to the Director. The Chairman shall also maintain a record of all such cases in which transcription cannot be ordered and provide that record to the Director. If no transcript is required, the Board shall issue a briefing schedule within seven days after the screening panel completes its review. The case shall be assigned to a single Board member for merits review under paragraph (e)(3) of this section within seven days of the completion of the record on appeal, including any briefs or motions. The single Board member shall then determine whether to adjudicate the appeal or to designate the case for decision by a three-member panel under paragraphs (e)(5) and (6) of this section within 14 days of being

assigned the case. The single Board member or three-member panel to which the case is assigned shall issue a decision on the merits consistent with this section and with a priority for cases or custody appeals involving detained aliens.

(i) Except in exigent circumstances as determined by the Chairman, subject to concurrence by the Director, or as provided in paragraph (d)(6) of this section or as provided in § 1003.6(c) and § 1003.19(i), the Board shall dispose of all appeals assigned to a single Board member within 90 days of completion of the record on appeal, or within 180 days of completion of the record on appeal for all appeals assigned to a three-member panel (including any additional opinion by a member of the panel).

\* \* \* \* \*

(iii) In rare circumstances, when an impending decision by the United States Supreme Court or an impending *en banc* Board decision may substantially determine the outcome of a group of cases pending before the Board, the Chairman, subject to concurrence by the Director, may hold the cases until such decision is rendered, temporarily suspending the time limits described in this paragraph (e)(8). The length of such a hold shall not exceed 120 days.

\* \* \* \* \*

(v) \* \* \* The Chairman shall notify the Director of all cases in which an extension under paragraph (e)(8)(ii) of this section, a hold under paragraph (e)(8)(iii) of this section, or any other delay in meeting the requirements of this paragraph (e)(8) occurs. For any case still pending adjudication by the Board more than 335 days after the appeal was filed and not otherwise subject to an extension under paragraph (e)(8)(ii) or a hold under paragraph (e)(8)(iii), the Chairman shall refer that case to the Director for decision. For a case referred to the Director under this paragraph (e)(8)(v), the Director shall exercise delegated authority from the Attorney General identical to that of the Board as described in this section, including the authority to issue a precedential decision and the authority to refer the case to the Attorney General for review, either on his own or at the direction of the Attorney General. The Director may not further delegate this authority.

\* \* \* \* \*

(k) *Quality assurance certification.* (1) In any case in which the Board remands a case to an immigration judge or reopens and remands a case to an immigration judge, the immigration judge may forward that case by

certification to the Director for further review only in the following circumstances:

(i) The Board decision contains a typographical or clerical error affecting the outcome of the case;

(ii) The Board decision is clearly contrary to a provision of the Act, any other immigration law or statute, any applicable regulation, or a published, binding precedent;

(iii) The Board decision is vague, ambiguous, internally inconsistent, or otherwise did not resolve the basis for the appeal; or

(iv) A material factor pertinent to the issue(s) before the immigration judge was clearly not considered in the decision.

(2) In order to certify a decision under paragraph (k)(1) of this section, an immigration judge must:

(i) Issue an order of certification within 30 days of the Board decision if the alien is not detained and within 15 days of the Board decision if the alien is detained;

(ii) In the order of certification, specify the regulatory basis for the certification and summarize the underlying procedural, factual, or legal basis; and

(iii) Provide notice of the certification to both parties.

(3) For a case certified to the Director under this paragraph, the Director shall exercise delegated authority from the Attorney General identical to that of the Board as described in this section, except as otherwise provided in this paragraph, including the authority to issue a precedent decision and the authority to refer the case to the Attorney General for review, either on the Director's own or at the direction of the Attorney General. For a case certified to the Director under this paragraph, the Director may dismiss the certification and return the case to the immigration judge or the Director may remand the case back to the Board for further proceedings. In a case certified to the Director under this paragraph, the Director may not issue an order of removal, grant a request for voluntary departure, or grant or deny an application for relief or protection from removal.

(4) The quality assurance certification process shall not be used as a basis solely to express disapproval of or disagreement with the outcome of a Board decision unless that decision is alleged to reflect an error described in paragraph (k)(1) of this section.

■ 3. Amend § 1003.2 by:

■ a. Revising the first sentence of paragraph (a);

- b. Removing the second and third sentences of paragraph (b)(1);
- c. Adding paragraphs (c)(3)(v) through (vii); and
- d. Removing and reserving paragraph (c)(4).

The revisions and additions read as follows:

#### § 1003.2 Reopening or reconsideration before the Board of Immigration Appeals.

(a) \* \* \* The Board may at any time reopen a case in which it has rendered a decision on its own motion solely in order to correct a ministerial mistake or typographical error in that decision or to reissue the decision to correct a defect in service. In all other cases, the Board may only reopen or reconsider any case in which it has rendered a decision solely pursuant to a motion filed by one or both parties. \* \* \*

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(v) For which a three-member panel of the Board agrees that reopening is warranted when the following circumstances are present, provided that a respondent may file only one motion to reopen pursuant to this paragraph:

(A) A material change in fact or law underlying a removability ground or grounds specified in section 212 or 237 of the Act that occurred after the entry of an administratively final order that vitiates all grounds of removability applicable to the alien; and

(B) The movant exercised diligence in pursuing the motion to reopen;

(vi) Filed based on specific allegations, supported by evidence, that the respondent is a United States citizen or national; or

(vii) Filed by DHS in removal proceedings pursuant to section 240 of the Act or in proceedings initiated pursuant to § 1208.2(c).

\* \* \* \* \*

■ 4. Amend § 1003.3 by revising paragraphs (a)(2) and (c) to read as follows:

#### § 1003.3 Notice of appeal.

(a) \* \* \*

(2) *Appeal from decision of a DHS officer.* A party affected by a decision of a DHS officer that may be appealed to the Board under this chapter shall be given notice of the opportunity to file an appeal. An appeal from a decision of a DHS officer shall be taken by filing a Notice of Appeal to the Board of Immigration Appeals from a Decision of a DHS Officer (Form EOIR–29) directly with DHS in accordance with the instructions in the decision of the DHS officer within 30 days of the service of the decision being appealed. An appeal

is not properly filed until it is received at the appropriate DHS office, together with all required documents, and the fee provisions of § 1003.8 are satisfied.

(c) *Briefs*—(1) *Appeal from decision of an immigration judge*. Briefs in support of or in opposition to an appeal from a decision of an immigration judge shall be filed directly with the Board. In those cases that are transcribed, the briefing schedule shall be set by the Board after the transcript is available. In all cases, the parties shall be provided 21 days in which to file simultaneous briefs unless a shorter period is specified by the Board. Reply briefs shall be permitted only by leave of the Board and only if filed within 14 days of the deadline for the initial briefs. The Board, upon written motion and a maximum of one time per case, may extend the period for filing a brief or, if permitted, a reply brief for up to 14 days for good cause shown. If an extension is granted, it is granted to both parties, and neither party may request a further extension. Nothing in this paragraph shall be construed as creating a right to a briefing extension for any party in any case, and the Board shall not adopt a policy of granting all extension requests without individualized consideration of good cause. In its discretion, the Board may consider a brief that has been filed out of time. In its discretion, the Board may request supplemental briefing from the parties after the expiration of the briefing deadline. All briefs, filings, and motions filed in conjunction with an appeal shall include proof of service on the opposing party.

(2) *Appeal from decision of a DHS officer*. Briefs in support of or in opposition to an appeal from a decision of a DHS officer shall be filed directly with DHS in accordance with the instructions in the decision of the DHS officer. The applicant or petitioner and DHS shall be provided 21 days in which to file a brief, unless a shorter period is specified by the DHS officer from whose decision the appeal is taken, and reply briefs shall be permitted only by leave of the Board and only if filed within 14 days of the deadline for the initial briefs. Upon written request of the alien and a maximum of one time per case, the DHS officer from whose decision the appeal is taken or the Board may extend the period for filing a brief for up to 14 days for good cause shown. After the forwarding of the record on appeal by the DHS officer the Board may, solely in its discretion, authorize the filing of supplemental briefs directly with the Board and may provide the parties up to a maximum of 14 days to

simultaneously file such briefs. In its discretion, the Board may consider a brief that has been filed out of time. All briefs and other documents filed in conjunction with an appeal, unless filed by an alien directly with a DHS office, shall include proof of service on the opposing party.

■ 5. Revise § 1003.5 to read as follows:

#### § 1003.5 Forwarding of record on appeal.

(a) *Appeal from decision of an immigration judge*. If an appeal is taken from a decision of an immigration judge, the record of proceeding shall be promptly forwarded to the Board upon the request or the order of the Board, unless the Board already has access to the record of proceeding in electronic format. The Director, in consultation with the Chairman and the Chief Immigration Judge, shall determine the most effective and expeditious way to transcribe proceedings before the immigration judges. The Chairman and the Chief Immigration Judge shall take such steps as necessary to reduce the time required to produce transcripts of those proceedings and to ensure their quality.

(b) *Appeal from decision of a DHS officer*. If an appeal is taken from a decision of a DHS officer, the record of proceeding shall be forwarded to the Board by the DHS officer promptly upon receipt of the briefs of the parties, or upon expiration of the time allowed for the submission of such briefs, unless the DHS officer reopens and approves the petition.

#### § 1003.7 [Amended]

■ 6. Amend § 1003.7 by removing the word “Service” each place that it appears and adding in its place the word “DHS”.

■ 7. Amend § 1003.10 in paragraph (b) by removing “governing standards” and adding in its place “governing standards set forth in paragraph (d) of this section” and by adding two sentences at the end.

The additions read as follows:

#### § 1003.10 Immigration judges.

(b) \* \* \* Nothing in this paragraph nor in any regulation contained in 8 CFR part 1240 shall be construed as authorizing an immigration judge to administratively close or suspend adjudication of a case unless a regulation promulgated by the Department of Justice or a previous judicially approved settlement expressly authorizes such an action. Only the Director or Chief Immigration Judge may

direct the deferral of adjudication of any case or cases by an immigration judge.

■ 8. Amend § 1003.23 by revising the first sentence of, and adding a new second sentence to, paragraph (b)(1), and adding paragraphs (b)(4)(v) and (vi) to read as follows:

#### § 1003.23 Reopening or reconsideration before the immigration court.

(b) \* \* \*  
(1) \* \* \* Unless jurisdiction is vested with the Board of Immigration Appeals, an immigration judge may at any time reopen a case in which he or she has rendered a decision on his or her own motion solely in order to correct a ministerial mistake or typographical error in that decision or to reissue the decision to correct a defect in service. Unless jurisdiction is vested with the Board of Immigration Appeals, in all other cases, an immigration judge may only reopen or reconsider any case in which he or she has rendered a decision solely pursuant to a motion filed by one or both parties. \* \* \*

(4) \* \* \*  
(v) The time and numerical limitations set forth in paragraph (b)(1) of this section shall not apply to a motion to reopen proceedings filed when each of the following circumstances is present, provided that a respondent may file only one motion to reopen pursuant to this paragraph:

(A) A material change in fact or law underlying a removability ground or grounds specified in section 212 or 237 of the Act occurred after the entry of an administratively final order that vitiates all grounds of removability applicable to the alien; and

(B) The movant exercised diligence in pursuing the motion to reopen.

(vi) The time limitations set forth in paragraph (b)(1) of this section shall not apply to a motion to reopen proceedings filed based on specific allegations, supported by evidence, that the respondent is a United States citizen or national.

#### PART 1240—PROCEEDINGS TO DETERMINE REMOVABILITY OF ALIENS IN THE UNITED STATES

■ 9. The authority citation for part 1240 continues to read as follows:

**Authority:** 8 U.S.C. 1103, 1158, 1182, 1186a, 1186b, 1225, 1226, 1227, 1228, 1229a, 1229b, 1229c, 1252 note, 1361, 1362; secs. 202 and 203, Pub. L. 105–100 (111 Stat. 2160, 2193); sec. 902, Pub. L. 105–277 (112 Stat. 2681).

■ 10. Amend § 1240.26 by:

- a. Redesignating paragraph (j) as paragraph (l);
- b. Adding and reserving a new paragraph (j); and
- c. Adding paragraph (k).

The additions read as follows:

**§ 1240.26 Voluntary departure—authority of the Executive Office for Immigration Review.**

\* \* \* \* \*

(j) [Reserved]

(k) *Authority of the Board to grant voluntary departure in the first instance.* The following procedures apply to any request for voluntary departure reviewed by the Board:

(1) The Board shall not remand a case to an immigration judge to reconsider a request for voluntary departure. If the Board first finds that an immigration judge incorrectly denied an alien's request for voluntary departure or failed to provide appropriate advisals, the Board shall consider the alien's request for voluntary departure de novo and, if warranted, may enter its own order of voluntary departure with an alternate order of removal.

(2) The Board shall not grant voluntary departure under section 240B(a) of the Act unless:

(i) The alien requested voluntary departure under that section before the immigration judge, the immigration judge denied the request, and the alien timely appealed;

(ii) The alien's notice of appeal specified that the alien is appealing the immigration judge's denial of voluntary departure and identified the specific factual and legal findings that the alien is challenging;

(iii) The Board finds that the immigration judge's decision was in error; and

(iv) The Board finds that the alien meets all applicable statutory and regulatory criteria for voluntary departure under that section.

(3) The Board shall not grant voluntary departure under section 240B(b) of the Act unless:

(i) The alien requested voluntary departure under that section before the immigration judge, the immigration judge denied the request, and the alien timely appealed;

(ii) the alien's notice of appeal specified that the alien is appealing the immigration judge's denial of voluntary departure and identified the specific factual and legal findings that the alien is challenging;

(iii) The Board finds that the immigration judge's decision was in error; and

(iv) The Board finds that the alien meets all applicable statutory and

regulatory criteria for voluntary departure under that section.

(4) The Board may impose such conditions as it deems necessary to ensure the alien's timely departure from the United States, if supported by the record on appeal and within the scope of the Board's authority on appeal. The Board shall advise the alien in writing of the conditions set by the Board, consistent with the conditions set forth in paragraphs (c), (d), (e), (h), and (i) (other than paragraph (c)(3)(ii)) of this section. If the Board imposes conditions beyond those specifically enumerated, the Board shall advise the alien in writing of such conditions. The alien may accept or decline the grant of voluntary departure and may manifest his or her declination either by written notice to the Board within five days of receipt of its decision, by failing to timely post any required bond, or by otherwise failing to comply with the Board's order. The grant of voluntary departure shall automatically terminate upon a filing by the alien of a motion to reopen or reconsider the Board's decision, or by filing a timely petition for review of the Board's decision. The alien may decline voluntary departure if he or she is unwilling to accept the amount of the bond or other conditions.

Dated: August 20, 2020.

**William P. Barr,**  
*Attorney General.*

[FR Doc. 2020-18676 Filed 8-21-20; 4:15 pm]

**BILLING CODE 4410-30-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 87 and 1030

[EPA-HQ-OAR-2018-0276; FRL-10013-21-OAR]

**RIN 2060-AT26**

### Public Hearing for Control of Air Pollution From Airplanes and Airplane Engines: GHG Emission Standards and Test Procedures

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notification of public hearing.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing a virtual public hearing to be held on September 17, 2020, on its proposed greenhouse gas (GHG) emission standards for airplanes and airplane engines, which was published on August 20, 2020.

**DATES:** EPA will hold a virtual public hearing on September 17, 2020. Please refer to the **SUPPLEMENTARY INFORMATION**

section for additional information on the public hearing.

**ADDRESSES:** The virtual public hearing will be held on September 17, 2020. The hearing will begin at 10 a.m. Eastern Time (ET) and end when all parties who wish to speak have had an opportunity to do so. Additional information regarding the hearing appears below under **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Bryan Manning, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: 734-214-4832; email address: [manning.bryan@epa.gov](mailto:manning.bryan@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA is proposing GHG emission standards applicable to certain classes of engines used by certain civil subsonic jet airplanes and by certain civil larger subsonic propeller-driven airplanes with turboprop engines 85 FR 51556, August 20, 2020. These proposed standards are equivalent to the airplane CO<sub>2</sub> standards adopted by the International Civil Aviation Organization (ICAO) in 2017.

*Participation in virtual public hearing.* Please note that EPA is deviating from its typical approach because the President has declared a national emergency. Because of current recommendations from the Centers for Disease Control and Prevention (CDC), as well as state and local orders for social distancing to limit the spread of COVID-19, EPA cannot hold in-person public meetings at this time.

The virtual public hearing will provide interested parties the opportunity to present data, views, or arguments concerning the proposal (the official version of which was published 85 FR 51556, August 20, 2020, and a copy of which is available at <https://www.epa.gov/regulations-emissions-vehicles-and-engines/regulations-greenhouse-gas-emissions-aircraft>). EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. EPA recommends submitting the text of your oral comments as written comments to the rulemaking Docket ID No. EPA-HQ-OAR-2018-0276, which can be found at <https://www.regulations.gov>. Written comments must be received on or before October 19, 2020.

The hearing will begin at 10 a.m. Eastern Time (ET) and end when all parties who wish to speak have had an opportunity to do so. A five-minute time limit will be placed on all oral testimony.

EPA is also asking all hearing attendees to pre-register for the hearing, even those who do not intend to provide testimony. This will help EPA ensure that sufficient phone lines will be available. The EPA is requesting that you pre-register by September 14, 2020, to allow for the orderly scheduling of testimony. For registration instructions, please send an email to [ASD-Registration@epa.gov](mailto:ASD-Registration@epa.gov). For those without internet access, please call 888-528-8331 to register.

Please note that any updates made to any aspect of the hearing logistics, including potential additional sessions, will be posted online at <https://www.epa.gov/regulations-emissions-vehicles-and-engines/regulations-greenhouse-gas-emissions-aircraft>. While EPA expects the hearing to go forward as set forth above, please monitor our website or contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section via email or telephone to determine if there are any updates.

If you require the services of a translator or special accommodations such as audio description, please pre-register for the hearing and describe your needs by September 10, 2020. EPA may not be able to arrange accommodations without advance notice.

*How can I get copies of the proposed action and other related information?* EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2018-0276, which can be found at <https://www.regulations.gov>. EPA has also developed a website for this rule at <https://www.epa.gov/regulations-emissions-vehicles-and-engines/regulations-greenhouse-gas-emissions-aircraft>. Please refer to the notice of proposed rulemaking for detailed information on accessing information related to the proposal.

Dated: August 20, 2020.

**William Charmley,**

*Director, Assessment and Standards Division.*

[FR Doc. 2020-18715 Filed 8-25-20; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 45 CFR Part 1

**RIN 0991-AC17**

#### Department of Health and Human Services Good Guidance Practices

**AGENCY:** Office of the Secretary, Department of Health and Human Services.

**ACTION:** Proposed rule; correction.

**SUMMARY:** The Department of Health and Human Services proposes to issue regulations governing the agency's release and maintenance of guidance documents. These regulations would help to ensure that the public receives appropriate notice of new guidance and that the Department's guidance does not impose obligations on regulated parties that are not already reflected in duly enacted statutes or regulations lawfully promulgated under them.

**DATES:** August 18, 2020.

**FOR FURTHER INFORMATION CONTACT:** Brenna Jenny, Department of Health and Human Services, 200 Independence Avenue SW, Room 713F, Washington, DC 20201. Email: [Good.Guidance@hhs.gov](mailto:Good.Guidance@hhs.gov). Telephone: (202) 690-7741.

#### SUPPLEMENTARY INFORMATION:

##### I. Summary of Errors

In FR Doc. 2020-18208, the notice of proposed rulemaking entitled "Department of Health and Human Services Good Guidance Practices" (hereinafter referred to as the Good Guidance Practices Rule) there was an error in the proposed date by which the Department would be required to have posted to the guidance repository all guidance documents in effect that were issued by any component of the Department. The Good Guidance Practices Rule used the proposed date of November 2, 2020, but the correct date is November 16, 2020. Similarly, in several places the Good Guidance Practices Rule referred to a time period after "the effective date of the final regulation" or a date "60 days after [the] effective date of the final rule"; these references throughout should be replaced with the correct proposed date of November 16, 2020.

We are correcting our previous statement in the August 17, 2020 notice of proposed rulemaking accordingly.

Therefore, FR Proposed Rule Doc. 2020-18208, published August 20, 2020, beginning on page 51396, is corrected as follows:

## II. Correction of Errors in the Preamble

1. On page 51398, in the first column, the second sentence is corrected to read as follows:

"If the proposed rule is finalized, following November 16, 2020, each guidance document issued by HHS, or any of its components, would be required specifically to state that it is a "guidance" document and use the following language, unless the guidance is authorized by law to be binding: "The contents of this document do not have the force and effect of law and are not meant to bind the public in any way, unless specifically incorporated into a contract. This document is intended only to provide clarity to the public regarding existing requirements under the law."

2. On page 51398, in the first column, the first sentence of the second paragraph sentence is corrected to read as follows:

"HHS proposes to require that each guidance document issued by it or any component after November 16, 2020, if finalized, must also include the following information: (1) The activities to which and the persons to whom the guidance applies; (2) the date HHS issued the guidance document; (3) a unique agency identifier; (4) a statement indicating whether the guidance document replaces or revises a previously issued guidance document and, if so, identifying the guidance document that it replaces or revises; (5) a citation to the statutory provision(s) and/or regulation(s) (in Code of Federal Regulations format) that the guidance document is interpreting or applying; and (6) a short summary of the subject matter covered in the guidance document."

3. On page 51398, in the third column, the third sentence of the second paragraph sentence is corrected to read as follows:

"By November 16, 2020, the Department would be required to have posted to the guidance repository all guidance documents in effect that were issued by any component of the Department."

4. On page 51398, in the third column, the first sentence of the third paragraph sentence is corrected to read as follows:

"Under this proposal, any web page in the guidance repository that contains guidance documents would clearly indicate that any guidance document previously issued by the Department would no longer be in effect and would be considered rescinded, if it is not included in the guidance repository by November 16, 2020."

5. On page 51398, in the third column, the fourth paragraph is corrected to read as follows:

“If the Department would desire to reinstate a rescinded guidance document not posted to the guidance repository by November 16, 2020, the Department would be able to do so only by following all requirements applicable to newly issued guidance documents.”

6. On page 51398, in the third column, the first sentence of the fifth paragraph is corrected to read as follows:

“If this proposed rule is finalized, guidance documents issued after November 16, 2020 would be required to comply with all applicable requirements in § 1.3.”

7. On pages 51398–51399, in the third column, the last sentence in the fifth paragraph is corrected to read as follows:

“For significant guidance documents issued after November 16, 2020, HHS would be required to post proposed versions of significant guidance documents to the guidance repository as part of the notice-and-comment process.”

### III. Correction of Errors in Proposed Regulation Text

On page 51401, in the first column, added § 1.4 is corrected to read as follows:

#### § 1.4 Guidance repository.

(a) *Existing guidance.* By November 16, 2020, the Department shall maintain a guidance repository on its website at [www.hhs.gov/guidance](http://www.hhs.gov/guidance).

(1) The guidance repository shall be fully text searchable and contain or link to all guidance documents in effect that have been issued by any component of the Department.

(2) If the Department does not include a guidance document in the guidance repository by November 16, 2020, the guidance document shall be considered rescinded.

(3) Any web page in the guidance repository that contains or links to guidance documents must state:

(i) That the guidance documents contained therein:

(A) “Lack the force and effect of law, except as authorized by law or as specifically incorporated into a contract.”; and

(B) “The Department may not cite, use, or rely on any guidance that is not posted on the guidance repository, except to establish historical facts.”

(ii) That any guidance document previously issued by the Department is no longer in effect, and will be considered rescinded, if it is not included in the guidance repository.

(4) If the Department wishes to reinstate a rescinded guidance document, the Department may do so only by complying with all of the requirements applicable to guidance documents issued after November 16, 2020.

(b) *Guidance issued after November 16, 2020.* (1) For all guidance documents issued after November 16, 2020, the Department must post each guidance document to the Department’s guidance repository within three business days of the date on which that guidance document was issued.

(2) For significant guidance documents issued after November 16, 2020, the Department shall post proposed new significant guidance to the guidance repository as part of the notice-and-comment process.

(i) The posting shall clearly indicate the end of each significant guidance document’s comment period and provide a means for members of the public to submit comments.

(ii) The Department shall also post online all responses to major public comments.

Dated: August 21, 2020.

**Wilma M. Robinson,**

*Deputy Executive Secretary to the Department, Department of Health and Human Services.*

[FR Doc. 2020–18744 Filed 8–24–20; 11:15 am]

**BILLING CODE 4150–26–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS–R4–ES–2019–0050; FF09E21000 FXES11110900000 201]

**RIN 1018–BE15**

#### Endangered and Threatened Wildlife and Plants; Endangered Species Status for Marron Bacora and Designation of Critical Habitat

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are proposing to list the marron bacora (*Solanum conocarpum*), a plant species from the U.S. and British Virgin Islands, as an endangered species and designate critical habitat under the Endangered Species Act of 1973, as amended (Act). After a review of the best available scientific and commercial information, we find that listing the species is warranted. Accordingly, we propose to

list the marron bacora as an endangered species under the Act. If we finalize this rule as proposed, it would add this species to the Federal List of Endangered and Threatened Plants and extend the Act’s protections to the species. We also propose to designate critical habitat for the marron bacora under the Act. In total, approximately 2,549 acres (1,032 hectares) on St. John, U.S. Virgin Islands, fall within the boundaries of the proposed critical habitat designation. Finally, we announce the availability of a draft economic analysis (DEA) of the proposed designation of critical habitat for marron bacora.

**DATES:** We will accept comments received or postmarked on or before October 26, 2020. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by October 13, 2020.

**ADDRESSES:** You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter FWS–R4–ES–2019–0050, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on “Comment Now!”

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–R4–ES–2019–0050, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

*Availability of supporting materials:* For the critical habitat designation, the coordinates or plot points or both from which the maps are generated are included in the administrative record and are available at <https://www.fws.gov/southeast/caribbean>, at <http://www.regulations.gov> under Docket No. FWS–R4–ES–2019–0050, and can be requested from the Caribbean Ecological Services Field Office (see **FOR FURTHER INFORMATION**

**CONTACT).** Any additional tools or supporting information that we may develop for the critical habitat designation will also be available at the Service website and Field Office set out above, and may also be included in the preamble and/or at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Edwin Muñiz, Field Supervisor, U.S. Fish and Wildlife Service, Caribbean Ecological Services Field Office, P.O. Box 491, Road 301 Km 5.1, Boquerón, PR 00622; telephone 787-851-7297. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800-877-8339.

**SUPPLEMENTARY INFORMATION:**

**Executive Summary**

*Why we need to publish a rule.* Under the Act, if we determine that a species is warranted for listing as an endangered or threatened species throughout all or a significant portion of its range, we are required to promptly publish a proposal in the **Federal Register** and make a determination on our proposal within one year. To the maximum extent prudent and determinable, we must designate critical habitat for any species that we determine to be an endangered or threatened species under the Act. Listing a species as an endangered or threatened species and designation of critical habitat can only be completed by issuing a rule.

*What this rule does.* This rule proposes to list the marron bacora (*Solanum conocarpum*) as an endangered species under the Act, and proposes to designate critical habitat for the species. Marron bacora is a species for which we have on file sufficient information on biological vulnerability and threats to support preparation of a listing proposal, but for which development of a listing rule was previously precluded by other higher priority listing activities (also known as a candidate species). This proposed rule makes a new 12-month finding using the best available information regarding threats facing the marron bacora and its status.

*The basis for our action.* Under the Act, we may determine that a species is an endangered or threatened species because of any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We

have determined that the primary threats acting on marron bacora are habitat destruction or modification by exotic mammal species (e.g., white-tailed deer, goats, pigs, and donkeys) (Factor A), herbivory by nonnative, feral ungulates and insect pests (Factor C), the lack of natural recruitment (Factor E), absence of dispersers (Factor E), fragmented distribution and small population size (Factor E), lack of genetic diversity (Factor E), climate change (Factor E), and exotic, invasive plants (e.g., guinea grass) (Factor E).

Section 4(a)(3) of the Act requires the Secretary of the Interior (Secretary) to designate critical habitat concurrent with listing to the maximum extent prudent and determinable. Section 3(5)(A) of the Act defines critical habitat as (i) the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protections; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species. Section 4(b)(2) of the Act states that the Secretary must make the designation on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impacts of specifying any particular area as critical habitat.

*Peer review.* We prepared a species status assessment report (SSA report) for the marron bacora that represents a compilation and assessment of the best scientific and commercial information available concerning the status of the marron bacora, including past, present, and future factors influencing the species (Service 2019, entire). In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act, we sought the expert opinions of six appropriate specialists regarding the SSA report, which informed this proposed rule. The purpose of peer review is to ensure that our listing determinations, critical habitat designations, and 4(d) rules are based on scientifically sound data, assumptions, and analyses. The peer reviewers have expertise in the biology, habitat, and threats to the species.

Because we will consider all comments and information we receive

during the comment period, our final determinations may differ from this proposal. Based on the new information we receive (and any comments on that new information), we may conclude that the species is threatened instead of endangered, or we may conclude that the species does not warrant listing as either an endangered species or a threatened species and withdraw our proposal. Such final decisions would be a logical outgrowth of this proposal, as long as we: (a) Base the decisions on the best scientific and commercial data available after considering all of the relevant factors; (2) do not rely on factors Congress has not intended us to consider; and (3) articulate a rational connection between the facts found and the conclusions made, including why we changed our conclusion.

**Information Requested**

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American tribes, the scientific community, industry, or any other interested parties concerning this proposed rule.

We particularly seek comments concerning:

(1) The marron bacora's reproductive biology, range, and population trends, including:

(a) Biological or ecological requirements of the species, including microhabitat requirements for establishment and availability of pollinators;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) Factors that may affect the continued existence of the species, which may include habitat modification or destruction, overutilization, disease (insect pest or pathogens), predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors.

(3) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species and existing regulations that may be addressing those threats.

(4) Additional information concerning the historical and current status, range,



distribution, and population size of this species, including the locations of any additional populations of this species.

(5) The reasons why we should or should not designate habitat as “critical habitat” under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including information to inform the following factors that the regulations identify as reasons why designation of critical habitat may be not prudent:

(a) The species is threatened by taking or other human activity and identification of critical habitat can be expected to increase the degree of such threat to the species;

(b) The present or threatened destruction, modification, or curtailment of a species’ habitat or range is not a threat to the species, or threats to the species’ habitat stem solely from causes that cannot be addressed through management actions resulting from consultations under section 7(a)(2) of the Act;

(c) Areas within the jurisdiction of the United States provide no more than negligible conservation value, if any, for a species occurring primarily outside the jurisdiction of the United States; or

(d) No areas meet the definition of critical habitat.

(6) Specific information on:

(a) The amount and distribution of marron bacora habitat;

(b) What areas, that were occupied at the time of listing and that contain the physical or biological features essential to the conservation of the species, should be included in the designation and why;

(c) Special management considerations or protection that may be needed in critical habitat areas we are proposing, including managing for the potential effects of climate change; and

(d) What areas not occupied at the time of listing are essential for the conservation of the species. We particularly seek comments regarding:

(i) Whether occupied areas are inadequate for the conservation of the species, and

(ii) Specific information that supports the determination that unoccupied areas will, with reasonable certainty, contribute to the conservation of the species and contain at least one physical or biological feature essential to the conservation of the species.

(7) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

(8) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation, and

the related benefits of including or excluding specific areas.

(9) Information on the extent to which the description of probable economic impacts in the draft economic analysis is a reasonable estimate of the likely economic impacts.

(10) Whether any specific areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act.

(11) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or a threatened species must be made “solely on the basis of the best scientific and commercial data available.”

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Caribbean Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

### Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. Requests must be received by the date specified in **DATES**. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of the hearing, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing. For the immediate future, we will provide public hearings using webinars that will be announced on the Service’s website, in addition to the **Federal Register** and local newspapers. The use of these virtual public hearings is consistent with our regulation at 50 CFR 424.16(c)(3).

### Previous Federal Actions

On November 21, 1996, we received a petition from the U.S. Virgin Islands (USVI) Department of Planning and Natural Resources requesting that we list Eggers’ century plant and marron bacora as endangered. On November 16, 1998, we published in the **Federal Register** (63 FR 63659) our finding that the petition to list both species presented substantial information indicating that the requested action may be warranted; that document also initiated a status review of these two plants.

On September 1, 2004, the Center for Biological Diversity (CBD) filed a lawsuit alleging that the Service failed to publish a 12-month finding for Eggers’ century plant and marron bacora (*CBD v. Norton*, Civil Action No. 1:04–CV–2553 CAP). In a stipulated settlement agreement entered into on April 27, 2005, we agreed to submit a 12-month finding for Eggers’ century plant and marron bacora to the **Federal Register** by February 28, 2006. On March 7, 2006, we published a 12-month finding (71 FR 11367) that listing of Eggers’ century plant and marron bacora was not warranted, because we did not have sufficient information to determine the status of either species.

On September 9, 2008, CBD filed a complaint challenging our determination that Eggers’ century plant and marron bacora did not warrant listing (*CBD v. Hamilton*, Case No. 1:08–CV–02830–CAP). In a settlement agreement entered into on August 21, 2009, the Service agreed to submit to the **Federal Register** a new 12-month finding for marron bacora by February 15, 2011; as part of that settlement agreement, we also agreed to submit a



new 12-month finding for the Eggers' century plant, which we listed as an endangered species on September 9, 2014 (79 FR 53303).

We published a request for additional information to inform the status review of marron bacora on January 20, 2010 (75 FR 3190). The subsequent 12-month finding for marron bacora, published on February 22, 2011 (76 FR 9722), determined the species was warranted for listing, but precluded by higher priority listing actions. The threats to the species included the lack of natural recruitment, absence of dispersers, fragmented distribution, lack of genetic variation, climate change, and habitat destruction or modification by exotic mammal species. The species received a listing priority number (LPN) of 2 based on the high magnitude and immanency of the threats. The listing of this species was determined to be warranted but precluded in subsequent annual candidate notices of review (CNORs) (76 FR 66370, October 26, 2011; 77 FR 69994, November 21, 2012; 78 FR 70104, November 22, 2013; 79 FR 72450, December 5, 2014; 80 FR 80584, December 24, 2015; 81 FR 87246, December 2, 2016; 84 FR 54732, October 10, 2019). This document constitutes a new 12-month finding for the marron bacora.

### Supporting Documents

A species status assessment (SSA) team, composed of Service biologists in consultation with other species experts, prepared an SSA report for marron bacora. The SSA report provides a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species to determine the viability of the species. The Service sent the SSA report to six independent peer reviewers and received one response from colleagues at the Fairchild Tropical Botanic Gardens. The Service also sent the SSA report to two partners for review—the National Park Service (NPS) and Virgin Islands Department of Planning and Natural Resources (DPNR)—and received a response from DPNR. The comments we received provided support for the conclusions in the SSA report and provided additional information to improve that document.

### I. Proposed Listing Determination

#### Background

A thorough review of the taxonomy, life history, and ecology of marron bacora is presented in the SSA report version 1.0 and evaluates the species'

overall viability (Service 2019, entire). Below, we summarize the key results and conclusions of the SSA report, which can be viewed under Docket No. FWS-R4-ES-2019-0050 at <http://www.regulations.gov>.

Marron bacora is a dry-forest, perennial shrub of the Solanaceae (or nightshade) family that is endemic to the Virgin Islands. It has small purple flowers and can grow to the height of around 9.8 feet (ft) (3 meters (m)). The plants produce a green fruit with white striations and golden yellow when ripe (Acevedo-Rodriguez 1996, p. 415). The species typically requires pollinators for reproductive success, but may self-pollinate under certain conditions.

The historical range of the species includes St. John and possibly St. Thomas, USVI; however, recent surveys found the species on the neighboring island, Tortola, British Virgin Islands (BVI). There is an additional, unconfirmed record from plant material collected in 1969 at Gordon Peak on Virgin Gorda, BVI (Acevedo-Rodríguez 1996, p. 415). There is suitable habitat for the species on Virgin Gorda; however, that is the only record of the species on another island and there have been no other records since the single plant was found in 1969. At least three populations on St. John have been extirpated.

The species is currently found on St. John, USVI, and Tortola, BVI, with a fragmented distribution of seven populations on St. John and a single population on Tortola. St. John has a history of land-use changes that resulted in habitat loss and degradation further isolating suitable habitats in patches that were not readily connected. The species is a dioecious (separate male and female plants) obligate out-croser and typically self-incompatible, so the larger the population, the better for ensuring successful reproduction and maintaining genetic diversity within populations.

The sex ratio of marron bacora is 1:1, and a much longer time is needed for female plants to flower for the first time (from the seedling stage) compared with the males (Anderson et al. 2015, p. 475). This may explain the rarity of the species in the landscape as only half of the wild individuals (based on the 1:1 ratio) have the potential to produce fruits and viable seeds, and thus highlights the importance of introducing an adequate number of plants into the wild (Anderson et al. 2015, p. 482). Nonetheless, there is no available information regarding the seed dormancy or long-term storage potential for marron bacora.

As plant populations become reduced and spatially segregated, important life-history needs provided by pollinators and seed dispersers may be compromised (Kearns and Inouye 1997, p. 305). The fragmented distribution of marron bacora on St. John can be attributed to historical habitat degradation. Based on the hermaphroditic and dioecious biology of marron bacora, the species requires cross-pollination. Pollinators including carpenter bees (*Xylocopa mordax*), honey bees (*Apis mellifera*), and bananaquits (*Coereba flaveola*) have been documented at the Nanny Point population. (USFWS 2017aa, p. 7). In fact, about 92 percent of the 75 marron bacora natural individuals in this area were observed in flower (USFWS 2017aa, p. 7).

The natural dispersal mechanism of marron bacora remains unknown, but fruit predation is suspected as the explanation of lack of natural recruitment in the wild (USFWS 2011, p. 9726). Although predators may also disperse the species, it is likely that the seeds have not adapted to passing through the gastrointestinal tracts of the exotic mammals currently occurring in the island of St. John (e.g., white-tailed deer, feral hogs, donkeys). The native hermit crab (*Coenobita clypeatus*) has also been documented depredating marron bacora fruit (Ray and Stanford 2005, p. 18; Vilella and Pumbo 2010, p. 1), and, although there are several species of fruit-eating bats on St. John (*Artibeus jamaicensis*, *Brachyphylla cavernarum*, and *Stenoderma rufum*), there have been no studies to document their possible role in the life history of marron bacora, if any. Also, it is possible that natural fruit dispersers of marron bacora had targeted other food sources as the populations of this shrub became increasingly patchy, as a result of deforestation and introduction of exotic plant species. The patchy distribution of this species may suggest that its natural disperser is extinct or that the populations of the plant are too small to attract the disperser (Roman 2006, p. 82).

Little is known of the life history of this plant. Marron bacora is a perennial shrub that may live more than two decades. For example, the Nanny Point population was discovered in 2002 (Carper 2005, pers. comm.), and at that time, the population was already composed mainly of adult individuals and little natural recruitment was recorded. Thus, the current known natural individuals at Nanny Point should be approximately 20 years old. Marron bacora material was under cultivation from an individual

rediscovered in early 1990s (USFWS 2017aa, p. 4). Therefore, these plants would also be more than 20 years old. Nonetheless, the species may reach reproductive maturity 16 months from germination under greenhouse conditions (Anderson et al. 2015, p. 475). However, this period is expected to be greater in the wild, as seedlings may require longer periods to grow and individuals may remain suppressed under closed canopy and possible drought conditions.

## Regulatory and Analytical Framework

### Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species is an “endangered species” or a “threatened species.” The Act defines an endangered species as a species that is “in danger of extinction throughout all or a significant portion of its range,” and a threatened species as a species that is “likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.” The Act requires that we determine whether any species is an “endangered species” or a “threatened species” because of any of the following factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species’ continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term “threat” to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term “threat” includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term “threat” may encompass—either together or separately—the source of the

action or condition or the action or condition itself.

However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an “endangered species” or a “threatened species.” In determining whether a species meets either definition, we must evaluate all identified threats by considering the expected response by the species, and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species, such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an “endangered species” or a “threatened species” only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The Act does not define the term “foreseeable future,” which appears in the statutory definition of “threatened species.” Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term “foreseeable future” extends only so far into the future as the Services can reasonably determine that both the future threats and the species’ responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions. “Reliable” does not mean “certain”; it means sufficient to provide a reasonable degree of confidence in the prediction. Thus, a prediction is reliable if it is reasonable to depend on it when making decisions.

It is not always possible or necessary to define foreseeable future as a particular number of years. Analysis of the foreseeable future uses the best scientific and commercial data available and should consider the timeframes applicable to the relevant threats and to the species’ likely responses to those threats in view of its life-history characteristics. Data that are typically relevant to assessing the species’ biological response include species-specific factors such as lifespan, reproductive rates or productivity, certain behaviors, and other demographic factors.

### Analytical Framework

The SSA report documents the results of our comprehensive biological review of the best scientific and commercial data regarding the status of the species, including an assessment of the potential threats to the species. The SSA report does not represent a decision by the Service on whether the species should be proposed for listing as an endangered or threatened species under the Act. It does, however, provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies. The following is a summary of the key results and conclusions from the SSA report; the full SSA report can be found under Docket No. FWS–R4–ES–2019–0050 on <http://www.regulations.gov>.

To assess marron bacora’s viability, we used the three conservation biology principles of resiliency, redundancy, and representation (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency supports the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years), redundancy supports the ability of the species to withstand catastrophic events (for example, droughts, large pollution events), and representation supports the ability of the species to adapt over time to long-term changes in the environment (for example, climate changes). In general, the more resilient and redundant a species is and the more representation it has, the more likely it is to sustain populations over time, even under changing environmental conditions. Using these principles, we identified the species’ ecological requirements for survival and reproduction at the individual, population, and species levels, and described the beneficial and risk factors influencing the species’ viability.

The SSA process can be categorized into three sequential stages. During the first stage, we evaluated the individual species’ life-history needs. The next stage involved an assessment of the historical and current condition of the species’ demographics and habitat characteristics, including an explanation of how the species arrived at its current condition. The final stage of the SSA involved making predictions about the species’ responses to positive and negative environmental and anthropogenic influences. Throughout all of these stages, we used the best available information to characterize viability as the ability of a species to sustain populations in the wild over

time. We use this information to inform our regulatory decision.

### Summary of Biological Status and Threats

In this discussion, we review the biological condition of the species and its needs, and the threats that influence the species' current and future condition, in order to assess the species' overall viability and the risks to that viability. Requirements for individuals to survive include having appropriate habitat, with both male and female plants present in a balanced sex ratio, and seasonal rainy periods. The habitat is described as dry deciduous and coastal scrub forests with dry soils at lower elevations (less than 85 m (278.9 ft)) restricted to the U.S. and British Virgin Islands; however, marron bacora shows little fidelity to any particular suite of community associations. Plants may reach a reproductive size in less than 2 years under greenhouse conditions; however, it may take decades for wild plants to effectively reproduce.

Due to the nature of marron bacora's narrow endemic distribution, the species is confined to the available habitat on St. John, USVI, and Tortola, BVI. Most of the species' habitat and the largest population on St. John occur within the Virgin Islands National Park (VINP), an area managed by NPS. Across St. John, NPS manages about 60 percent of the island's area, with VINP consisting of about 14,737 acres (ac) (5,963.9 hectares (ha)).

### Species Needs

Resilient populations require a population size and density that provides a balanced sex ratio (proportion of male and female plants). The demographics and population structure should reflect evidence of successful recruitment within each population. In order to maintain resilient populations, marron bacora needs continuous suitable habitat that allows for room for growth and dispersal, as well as connectivity between populations and availability of pollinators.

The species is typically found in dry deciduous forests at lower elevations (less than 85 m (278.9 ft)) with low annual rainfall with seasonal runoff conditions. Many plants have been found in open, eroded areas. The plant's growth and reproductive phenology are synchronized with the rainy seasons associated with the Virgin Islands. Maintaining conditions that facilitate the reproductive biology of marron bacora, along with maintaining forest connectivity and habitat corridors

among known populations, is critical for the long-term conservation of the species and will contribute to the ecological interactions with native pollinators and dispersers to ensure these systems remain functional.

### Factors Affecting the Viability of the Species

The stressors acting on the species as described in the SSA report include invasive species (plants and animals), predation, demographic and genetic consequences of small population size and density, human-induced fires, habitat loss/degradation, insect pests and pathogens, changes in phenology and breeding systems, recreation, and climate change and hurricanes. The primary stressors acting on the species are impacts from nonnative, invasive species that preclude natural recruitment.

### Nonnative/Invasive Species

Marron bacora is directly affected by nonnative, invasive plants and animals. White-tailed deer (*Odocoileus virginianus*) are naturalized and very abundant on the islands. They directly affect the species by browsing on the plants (seedlings and saplings) and fruits. Other nonnative species used as livestock, including hogs (*Sus scrofa*), goats (*Capra aegagrus hircus*), and donkeys (*Equus africanus asinus*), have also naturalized and have been recorded within the VINP. These species also forage freely on the island both on native vegetation and on invasive guinea grasses such as *Megathyrsus maximus* (USVI Dept. of Planning and Natural Resources, p. 8). Cattle also range freely on St. John and Tortola. In addition, the habitat of marron bacora at Nanny Point is affected by encroachment of exotic grasses and vines following Hurricanes Irma and Maria in 2017 (Island Conservation 2018, pp. 3, 12).

### Herbivory by Feral Ungulates

Another major threat acting on marron bacora is the lack of natural recruitment most likely due to depredation of its fruits and seedlings by feral ungulates. There is ongoing research studying the impact by feral browsers on the viability of marron bacora. The effects of foraging on marron bacora plants during a post-hurricane study on St. John in 2018 showed 35.5 percent of the known population at Nanny Point exhibited signs of herbivory from mammals, such as white-tailed deer. During the same study, 61 percent (11 plants) of the John's Folly population exhibited a combination of impacts by herbivorous

insects and browsing by invasive mammals (IC Report 2018, p. 5). White-tailed deer were introduced to St. John in the 1920s in order to provide hunting opportunities. Since then, the deer range freely across the island, foraging on the native vegetation, and according to local experts, populations of deer are increasing on the island (Gibney 2017, pers comm.). There are currently no estimates on the deer abundance on St. John, and there are no native predators to control the deer population.

### Small Population Size and Density

Marron bacora currently shows overall low numbers of individuals, low numbers of populations, and low numbers of individuals at each population site, which is reflected with low resiliency, redundancy, and representation. There is a lack of knowledge regarding the abundance and roles of dispersers and pollinators at the population and species levels. Current knowledge of the ecology and genetic diversity of Virgin Islands rare flora is sparse (Stanford et al. 2013, p. 173). While the genetic diversity at the species level of marron bacora is relatively high, the majority of its diversity is confined to the largest population at Nanny Point (Stanford 2013, p. 178). The current fragmented population distribution may result in Allee effects due to small population sizes, a lack of genetic exchange among populations, and eventual genetic drift.

### Human-Induced Fires

In the Caribbean, native plant species, particularly endemics with limited distribution, may be vulnerable to manmade events such as human-induced fires. Fire is not a natural component of subtropical dry forests in the Virgin Islands; thus, most species found in this type of forest are not fire-adapted and are not likely to withstand frequent fire events (Monsegur, cited in USFWS 2011, p. 9726). Marron bacora is associated with lower elevation dry forests. This habitat may be susceptible to forest fires, particularly on private lands, where fire could be accidentally ignited. Furthermore, regenerating forests, such as the ones prevalent on St. John, are prone to wildfires that perpetuate the succession of persistent shrub land dominated by introduced tree species and grasses; this inhibits native species' growth and subsequently contributes to more intense and more severe fires (Wiley and Vilella 1998, p. 340). Given the growth pattern of marron bacora, it is unlikely that individuals would survive a fire even of moderate intensity (Vilella and Palumbo 2010, p. 15). Intrusion by exotic plants

may also occur in areas where fire changes the structure of the native vegetation. A site visit to St. John to evaluate the threats to the species' known natural populations found no substantial evidence indicating fires posed an imminent threat to the species (Monsecur, pers. obs.). The site on St. John that is most vulnerable to fires is Johns Folly, due to its proximity to a road and the accumulation of debris associated with a former house (Monsecur, pers. obs.). In addition, following Hurricanes Irma and Maria, the habitat at the Nanny Point population has been encroached by exotic grasses, making this population vulnerable to a fire event (Monsecur, pers. obs.).

#### Insect Pests and Pathogens

Although known marron bacora populations are relatively protected, the small size of populations coupled with the effects of insect pests or pathogens could contribute to local extirpation. For example, although the Reef Bay Valley population consisted of 6 wild individuals and 60 introduced individuals in 2011, the population was considered extirpated by 2017 most likely due to a low survival rate for the introduced marron bacora. However, an unknown pathogen was documented in that population (Stanford et al. 2013, p. 178), which also may have contributed to its loss. More recently, in 2018, 63.2 percent of the marron bacora individuals at Nanny Point showed some sort of stem dieback; however, it is not clear if this is due to some pest or disease (IC Report 2018, p. 5). Nonetheless, recent observations indicate that dieback is clustered mainly to the eastern corner of the Nanny Point population and associated to edge vegetation (vines and shrub land vegetation exposed to salt spray).

In addition, the assessment by Service staff in 2017 recorded the presence of the Jacaranda bug (*Insignorthezia insignis*) at the Nanny Point population, and the scale insects *Praelongorthezia praelonga* (Douglas) and *Insignorthezia insignis* on plants at the gardens of the NPS facilities (USFWS 2017a, p. 14). The Jacaranda bug is a sap-feeding insect in the *Orthezidae* family. The scale insect (*Praelongorthezia praelonga*) can also damage plants directly by sucking their sap, or indirectly by injecting toxic salivary secretions that may attract ants, transmit pathogens, and encourage growth of sooty molds (Ramos et al. 2018, p. 273). Our conclusions on the effects of these insects and pathogens on marron bacora are based on the available information about their effects on other species of

plants that occur on St. John (e.g., Ramos et al. 2018, p. 273), and on our observations in the field during marron bacora assessments (Monsecur and Yrigoyen 2018, pers. comm.). No studies have been carried out to ascertain the extent of potential impacts by these pests specifically on marron bacora.

#### Phenology and Breeding System

The hermaphroditic and dioecious biology of marron bacora was confirmed by lack of pollination in crossings of pollen to the stigma of other male flowers or transferred to the stigma of the same flower (Anderson et al. 2015, p. 479). A 1:1 sex ratio and a much longer time for marron bacora female plants to flower for the first time (from the seedling stage) compared with the males has been documented (Anderson et al. 2015, p. 475). At this point, the natural disperser of marron bacora remains unknown, and fruit predation is suspected as the explanation of lack of natural recruitment in the wild (76 FR 9722, February 22, 2011, p. 76 FR 9725). It is possible that natural fruit dispersers of marron bacora have targeted other food sources as the populations of this shrub became increasingly patchy, as a result of historical land-use changes and introduction of exotic plant species. The absence of a fruit disperser may also indicate that the disperser of the species is extinct or that the populations are too small to attract the disperser (Roman 2006, p. 82). The above information highlights the vulnerability of extirpation of relatively small populations of marron bacora as they may become functionally extinct and cannot support recovery or rescue of neighboring populations, limiting their value for redundancy and species resiliency.

#### Recreation

Some evidence of damage consistent with trail maintenance was recorded along Brown Bay trail, and additional habitat disturbance was observed at the John Folly site (park boundary) (USFWS 2011, p. 9724). Also, site disturbance (vegetation clearing) was recorded in 2017 at the John Folly population, where, for example, one seedling in the middle of the trail was susceptible to being trampled by hikers (USFWS 2017a, p. 9). However, considering the remoteness of the marron bacora habitat and given that the majority of the populations are within NPS land, recreational uses have a low likelihood of affecting the survival of the species.

#### Climate Change and Hurricanes

Hurricanes and tropical storms frequently affect the islands of the

Caribbean; thus, native plants should be adapted to such disturbance. In fact, successional responses to hurricanes can influence the structure and composition of plant communities in the Caribbean islands (Van Bloem et al. 2005, p. 576). However, climate change is predicted to increase tropical storm frequency and intensity, but also cause severe droughts (Hopkinson et al. 2008, p. 255). Climate model simulations indicate an increase in global tropical cyclone intensity in a warmer world, as well as an increase in the number of very intense tropical cyclones, consistent with current scientific understanding of the physics of the climate system (USGCRP 2018, p. 2). The vulnerability of species to climate change is a function of sensitivity to changes and exposure to those changes, and the adaptive capacity of the species (Glick et al. 2011, p. 1). Within natural conditions, it is likely that marron bacora is well-adapted to these atmospheric events. However, the cumulative effects of severe tropical storms and associated increased sediment runoff (erosion), along with the species' small population size and reduced natural recruitment, may jeopardize the future establishment of seedlings along drainage areas usually associated with suitable habitat for marron bacora (Ray and Stanford 2005, p. 2). There is evidence of direct impacts to the Nanny Point population due to a flash flood event associated with Hurricane Irma that hit St. John on September 6, 2017 (USFWS 2017b, p. 3).

Additive climate change stressors projected for the future include: (a) Increased number and intensity of strong storms, (b) increased temperatures, and (c) shifts in the timing and amounts of seasonal precipitation patterns. Despite projected increased storm intensity and frequency related to future hurricane seasons, recent works on climate change models for tropical islands predict that, for example, by the mid-21st century, Puerto Rico will be subject to a decrease in overall rainfall, along with increase annual drought intensity (Khalyani et al. 2016). Thus, due to the proximity of Puerto Rico to St. John, and that these islands belong to the same biogeographical unit (Puerto Rican Bank), these model predictions could also extend to the USVI (including St. John). Given the low number of known populations and individuals, and the lack of natural recruitment of marron bacora, the species may not have the genetic breadth to adapt to these predicted conditions. In addition, there is little knowledge of marron bacora's

life history (e.g., fruit/seed dispersers and germination requirements in the wild); the species has a restricted known range (e.g., mainly St. John); and its habitat is degraded due to free-ranging populations of feral animals (e.g., deer and goats), which precludes recruitment of new individuals. Moreover, in 2017, the island of St. John was affected by two catastrophic hurricanes (Irma and Maria), resulting in direct adverse impacts to individuals of marron bacora and its habitat. Marron bacora habitat remains encroached by weedy plants that persist more than 2 years after these atmospheric events and continue to affect the species.

#### Habitat Loss/Degradation

By 1717, the forested landscape of St. John was parceled into more than 100 estates for agriculture (i.e., sugarcane and cotton) and the majority of this landscape was deforested. Under this land-use regime, marron bacora populations were decimated, as the species had no economic importance or use. The current fragmented distribution of marron bacora is most likely the result of that historical land clearing for agriculture and subsequent development that has occurred since the 1700s. Even though these land-use changes occurred centuries ago, there are long-lasting effects that continue to affect the condition of the habitat; the effects on the species are exacerbated by the species' reproductive biology, the absence of seed dispersal, suspected fruit predation, and further habitat modification by feral ungulates.

At present, the Friis Bay (St. John, USVI) and Sabbath Hill (Tortola, BVI) populations are located on private lands vulnerable to habitat modification due to urban development. In addition, the Nanny Point and Johns Folly populations are situated within VINP lands just at the park boundary, and there is potential for urban and tourism development in the future, resulting in possible direct impacts to the species and interrelated effects (lack of habitat connectivity and cross pollination, and further habitat encroachment by exotic plant species). While the land that harbors the Nanny Point population is located on VINP, the adjacent private land could be at risk of development which may directly affect the species' most resilient population.

Synergistic interactions are possible between the effects of climate change and other potential threats such as nonnative species, pests, and development. The extent of impacts to the species due to synergistic threats is not well understood, as there is uncertainty in how nonnative species

(plants and animals) may respond to climate variables such as increased drought and changes in hurricane frequency and intensity. We expect the synergistic effects of the current and future threats acting on the species will exacerbate the decline in the species' viability by continued declines in reproductive success. Projecting the extent of synergistic effects of climate change on marron bacora is too speculative due to the complexity and uncertainty of the species' response to the combination of dynamic factors that influence its viability.

We note that, by using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have not only analyzed individual effects on the species, but we have also analyzed their potential cumulative effects. We incorporate the cumulative effects into our SSA analysis when we characterize the current and future condition of the species. Our assessment of the current and future conditions encompasses and incorporates the threats individually and cumulatively. Our current and future condition assessment is iterative because it accumulates and evaluates the effects of all the factors that may be influencing the species, including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to the entire species, our assessment integrates the cumulative effects of the factors and replaces a standalone cumulative effects analysis.

#### Conservation Measures

Efforts to conserve the species have included a captive propagation and planting program. Marron bacora has successfully been propagated by a St. John horticulturist with cuttings and manually assisting pollination by dusting the flowers (Kojis and Boulon 1996, pers comm.). Marron bacora specimens were then distributed to various places with suitable habitat in the Virgin Islands (Ray and Stanford 2005, p. 3). An implementation plan was developed to conduct shade-house propagation of marron bacora using both seedlings and cuttings for reintroduction within VINP (Ray and Stanford 2003, p. 3). A Nanny Point landowner funded and implemented a propagation program of marron bacora through germination and cloning of adult individuals to enhance natural populations of the species at Nanny Point, Brown Bay Trail, and Johns Folly (Ray and Carper 2009, p. 6). While the species has been successfully propagated, the reintroductions have

yielded unsuccessful results with a very low survival rate for propagated and reintroduced plants, and even lower for relocated adult plants.

The NPS has its own regulatory mechanisms to protect the species within VINP on St. John. The NPS is responsible under the Organic Act (54 U.S.C. 100101(a) *et seq.*; NPS 2006) for managing the national parks to conserve the scenery, natural and historic objects, and wildlife. The National Park Omnibus Management Act of 1998 (Pub. L. 105–391; NPS 2006), Title II, “National Park System Resource Inventory and Management,” mandates research in order to enhance management and protection of national park resources by providing clear authority and direction for the conduct of scientific study in the National Park System and to use the information gathered for management purposes. This law affects not only the NPS, but other Federal agencies, universities, and other entities that conduct research in the National Park system. Currently, the NPS has implemented its resource management responsibilities through its management policies, section 4.4.1, which state that NPS “will maintain as parts of the natural ecosystems of parks all plants and animals native to park ecosystems” (NPS 2006, p. 42). The Territory of the U.S. Virgin Islands currently considers marron bacora to be endangered under the Virgin Islands Indigenous and Endangered Species Act (V.I. Code, title 12, chapter 2), and an existing regulation provides for protection of endangered and threatened wildlife and plants by prohibiting the take, injury, or possession of indigenous plants.

In 2017, funding was provided to Island Conservation through the Service's Coastal Program to: (1) Propagate at least 100 marron bacora individuals to enhance the largest known population at Nanny Point, (2) introduce propagated materials to the Nanny Point population, (3) assess the extent of impacts of invasive mammal species to marron bacora and its habitat, (4) assess the extent of impacts by invasive mammal species to additional sites identified for marron bacora introduction, and (5) provide management recommendations for invasive mammals in order to significantly advance the recovery of marron bacora (IC Report 2018, p. 1). This project has been temporarily delayed in order to allow archaeological surveys to be completed prior to any outplanting.

*Current Conditions*

To determine the current condition of the species, we evaluated the resiliency, redundancy, and representation of populations across the landscape considering past and current stressors acting on the species and its habitat. The description of the species' current condition is described in more detail in the species status assessment (SSA) report (Service 2019, pp. 22–30).

*Resiliency*

In order to determine population resiliency, we generated resiliency scores for marron bacora by combining scores using habitat and population metrics. The best available information for each population was gathered from the literature and species experts. Each of the four metrics were weighted equally, with the overall effect that habitat (*i.e.*, protected vs. unprotected

lands [development risk], feral ungulates, and pest depredation) was weighted three times higher than population size/trend (Service 2018, pp. 58–59) (see Table 1, below). The scores for each population across all metrics were summed, and final population resilience categories were assigned (see Table 2, below).

**TABLE 1—DESCRIPTION OF HOW HABITAT AND POPULATION FACTORS WERE SCORED TO DETERMINE MARRON BACORA RESILIENCE**

Score	Habitat metrics			Population metric
	Habitat protection/development risk	Feral ungulates	Pest presence/depredation	Population size/trend
– 1 .....	Habitat not protected, at risk of being developed.	High number of exotic mammals.	High number of pests present.	Relatively low population size and/or declining trend.
0 .....	Some habitat protected, and some at risk of being developed.	Unknown or moderate number of exotic mammals.	Moderate number of pests present.	Relatively moderate population size and stable trend, or high degree of uncertainty in population size/trends.
1 .....	Habitat protected .....	Exotic mammals absent .....	Pests absent .....	Relatively high population size and/or growth.

**TABLE 2—RESILIENCY SCORES FOR MARRON BACORA USING HABITAT AND DEMOGRAPHIC METRICS**

Resiliency scores	
Low Resilience .....	– 4 to – 2.
Moderately Low Resilience .....	– 1.
Moderate Resilience .....	0.
Moderately High Resilience .....	1.
High Resilience .....	2 to 4.

The species is found on two islands with 11 known populations, of which 3 have become extirpated. The resiliency of the extant populations vary according to the abundance of individuals and habitat conditions at each location. The remaining eight extant populations vary between a single individual to 201 plants, and the habitat conditions vary according to the site location. The most recent abundance estimates of each population is described in the current condition and provided in Table 3, below.

*Nanny Point (St. John, USVI)*

The largest known population is on St. John at Nanny Point; in 2017, this population consisted of 75 mature adult individuals, 4 natural seedlings, and 44 planted individuals from past population enhancement efforts (USFWS 2017b, pers. obs.). During the 2017 survey, most plants were observed in flower, with some already producing fruit; however, despite this evidence of reproduction, only three seedlings were observed. The low number of seedlings,

despite the relatively high fruit production, is consistent with the information already available to the Service indicating that this population continues to show low recruitment (Ray and Stanford 2005, p. 18; USFWS 2011, p. 9726; USFWS 2017a, p. 7). Hurricane Maria resulted in flash floods that caused a loss of canopy (USFWS 2017b, p.3). Following Hurricane Maria, individual plants were covered with tree branches or sediment and several individuals were uprooted or lying on the ground (USFWS 2017b, p. 6–8). A 2018 assessment found 201 individual plants with an increase in natural seedlings and juveniles, suggesting the hurricane created favorable conditions for seedling establishment. A follow-up survey in 2019 found invasive grasses and vines were covering much of the area that was exposed from the canopy loss from the hurricanes.

This population is also affected by herbivory from invasive mammals and the Jacaranda beetle. The Nanny Point population has low resilience because the site is partially within VINP but also overlaps with unprotected, private lands; the population has a high presence of feral ungulates, high insect predation, and has a declining population size.

*Friis Bay (St. John, USVI)*

With the discovery of a new population in the British Virgin Islands, this is now the third largest natural population of marron bacora, with an estimated 33 individuals (Ray and

Stanford 2005, p. 16). The site has not been visited since 2005; thus, no current information is available on the status of this population. Based on our data and knowledge, it is our assumption that this population is also impacted by ungulates as they are free-roaming throughout the entire island of St. John. In addition, by being located on private land, the population is vulnerable to impacts from habitat modification as residents may not have knowledge of the species.

*Johns Folly (St. John, USVI)*

This site is located upslope in a ravine about 700 m (2,296.6 ft) northwest of the Nanny Point population. A 2017 population assessment identified only 4 natural individuals and 1 natural seedling, and 13 plants corresponding to planted material from a previous population enhancement with material from the Nanny Point population (USFWS 2017a, p. 7). Despite the evidence of flowering events, natural recruitment appears to be minimal, as only one natural seedling was observed. The distribution of the natural individuals is similar to Nanny Point with the majority of the plants at the bottom of the drainage. This site is located along the Park boundaries and the populations appear to be affected by human disturbance such as vegetation clearing for a hiking trail that begins nearby and former evidence of dumping (USFWS 2017a, p. 9).

In 2018, a post hurricane assessment of the population found 18 adult

individuals with no seedlings or juveniles reported. All individuals documented in this population were mature plants; none of the plants presented flowers or fruit. All individuals in this population were described as standing (none lying) with three of the individuals (16.7 percent) exhibiting some form of dieback and 11 plants (61.1 percent) exhibiting a combination of impacts by herbivorous insects and browsing by potential invasive mammals (IC Report 2018, p. 7). The Johns Folly population has low resilience due to habitat loss and fragmentation by development, low density of pollinators, high presence of feral ungulates, and a declining population.

#### *Brown Bay Trail (St. John, USVI)*

The Brown Bay Trail site is located along the Brown's Bay hiking trail within the VINP, an area of mature secondary dry forest located on the northeastern shore of St. John. The site is located on a slope approximately 60 m (196.85 ft) from shore and the populations is composed of a remnant natural individual and planted individuals that were part of a 2009 population enhancement using material propagated from the Nanny Point population. The wild individual occurs on the edge of an NPS-maintained hiking trail and showed signs of direct impacts from trail maintenance activity (*i.e.*, clearing of vegetation) (Palumbo et al. 2016, pp. 6–7).

In 2018, a post-hurricane assessment reported that the population was composed of 18 individuals—17 adults and 1 juvenile. The population here was described as an aged structure, with 94.4 percent of the individuals being classified as adults with no signs of flowers or fruit on any plants in this population. This population showed evidence of dieback on their leaves, impacts by herbivorous insects, and browsing by potential invasive mammals, and all of the plants at this location were described as suffering from severe dry conditions (IC Report 2018, p. 8). The Brown Bay Trail population has low resilience due to high presence of feral ungulates, high insect predation, and a declining population trend.

#### *Reef Bay Trail (St. John, USVI)*

The Reef Bay Trail locality is a new population located during a 2017 population assessment (USFWS 2017a, p. 11). The site lies within VINP along the NPS hiking trail from Europa Bay to Reef Bay. A population assessment in 2017 discovered 7 wild individuals, 85 percent in flower and some individuals

producing fruits. Additional habitat surveys may be required for a more thorough assessment of this area. No post hurricane assessments were carried out for this population. The Reef Bay Trail population has moderately low resilience due to high presence of feral ungulates that are causing an overall decline across all populations (Roberts 2017, entire).

#### *Base Hill (St. John, USVI)*

The population at Base Hill consists of 1 natural individual (Ray and Stanford 2005, p. 16). There have been no subsequent visits to this population since 2005; thus, no further data on the status of this individual are known. The current condition of this population is unknown.

#### *Brown Bay Ridge (St. John, USVI)*

In 2017, one wild individual was discovered on top of a ridge approximately 0.25 miles from the Brown Bay Trail population (Cecilia Rogers 2017, pers. comm.). Additional habitat surveys may be required for a more thorough assessment of this area, and no post hurricane assessments were carried out in this area. The Brown Bay Ridge population has moderately low resilience because, while there is a high presence of feral ungulates in the area, the area harbors suitable habitat and in addition, the single documented wild individual was a juvenile plant suggesting possible evidence of recruitment.

#### *Sabbat Point (St. John, USVI)*

This population was reported as a single natural individual in 2005 (Ray and Stanford 2005, p. 16; 76 FR 9722, February 22, 2011, p. 76 FR 9724). The individual was never relocated in a subsequent site visit, and the site showed evidence of disturbance based on the abundance of *Leucaena leucocephala*, *Opuntia repens*, and *Bromelia pinguin* (USFWS 2017a, p. 4). This population is considered extirpated.

#### *Reef Bay Valley (St. John, USVI)*

This locality is on the southern coast of St. John, along the shore near White Cliffs. In 2005, 6 wild and 60 introduced individuals were reported at the Reef Bay site (Ray and Stanford 2005, p. 16). Further assessments of this area were unsuccessful in detecting any marron bacora (USFWS 2017a, p. 11). Thus, the best available information indicates this population is extirpated, and no individuals are known in its proximity.

#### *Europa Ridge (St. John, USVI)*

The Europa Ridge population was a single individual when documented in the early 1990s (Acevedo-Rodriguez, P. 1996, p. 415). In 2005, the site was composed of 1 natural individual and 60 planted individuals (population enhancement) (Ray and Stanford 2005, p. 16). However, based on the latest habitat assessments by the Service, this population is likely extirpated (USFWS 2017a, p. 11).

#### *Sabbath Hill (Tortola, BVI)*

In 2018, surveys on Tortola identified a plant morphologically consistent with marron bacora, near Sabbath Hill. On a follow-up trip to confirm marron bacora in the area, a population of approximately 46 to 48 individuals was identified with most plants described as small and only about 7 as large. Three of the large plants were described as fertile, with one having flowers with no fruit, another having flowers and immature fruit, and the last having fruit but no flowers. The habitat was described as having open vegetation compared with the surrounding forest and containing a lot of nonnative annuals and *Acacia riparia* encroaching. Feral animal droppings and grazing of marron bacora were noted in the area (Heller et al. 2018, entire). The Sabbath Hill population has low resilience due to a high presence of feral ungulates and the location of the population not being associated with any protected lands. The population was only recently found; therefore, the population trends are unknown. However, due to the threats acting on this population, without management of free-ranging ungulates, the habitat will likely decline.

TABLE 3—MARRON BACORA MOST RECENT POPULATION ESTIMATES

Population location	Population estimate
<b>St. John, USVI</b>	
Nanny Point .....	201 (2018).
Fris Bay .....	33 (2005).
Johns Folly .....	18 (2018).
Brown Bay Trail .....	18 (2018).
Reef Bay Trail .....	7 (2017).
Base Hill .....	1 (2005).
Brown Bay Ridge .....	1 (2017).
Sabbat Point .....	Extirpated.
Reef Bay Valley .....	Extirpated.
Europa Ridge .....	Extirpated.
<b>Tortola, BVI</b>	
Sabbath Hill .....	46 (2018).

There is little evidence of natural recruitment in any of the known



populations of marron bacora. The population structure at Nanny Point and Johns Folly is characterized by the absence of individuals smaller than 1 meter high, with little evidence of seedlings or juveniles (three for Nanny Point and one for Johns Folly) (USFWS 2017a, p. 7). These populations consist primarily of reproductive individuals, as 92 percent and 75 percent of the plants, respectively, were recorded in flower during a recent survey (USFWS 2017a, p. 7). The Johns Folly population was composed of 4 natural adult individuals (reproductive size individuals naturally occurring at this site) or 36 percent of the total (11 plants) (USFWS 2017a, p. 9). The lack of natural recruitment does not seem to be attributed to low seed viability as germination under greenhouse conditions is high, with almost 100 percent germination (Ray and Stanford 2005, p. 6).

Efforts have been conducted to enhance existing natural populations by planting seedlings, including planting of 128 seedlings (different seed sources) at two localities in the south coast of St. John (Europa Ridge and Reef Bay Valley) (Stanford et al. 2013, p. 178). Overall survival of these seedlings over a 32-month period was approximately 81.3 percent in Europa Ridge, and 78.1 percent in Reef Bay Valley, and irrespective of seed source, survival rate was not significantly different between the two sites (Stanford et al. 2013, p. 177). However, growth rates for these sites were recorded as highly erratic, and plant material was affected by drought stress and insect herbivory (Stanford et al. 2013, p. 178). Further monitoring of these sites by NPS staff has not located living material of marron bacora, either natural or planted, and these populations are presumed extirpated (McKinley 2017, pers. comm.). In fact, the species was not detected in these areas in 2017 (USFWS 2017a, p. 11). Additional population enhancements from seedling and cuttings have been conducted at Nanny Point (50), Johns Folly (37), and Brown Bay (36) (76 FR 9722, February 22, 2011, p. 76 FR 9724). The current number of surviving individuals for these sites is 44 (88 percent), 13 (35 percent), and 10 (27 percent), respectively (USFWS 2017a, p. 13).

All eight extant populations are declining and have moderately low to low resiliency; many populations are on the brink of extirpation. The entire species consists of 324 known individuals, with 201 of those plants located within a single population (Nanny Point).

#### Redundancy and Representation

The species is showing very low to no natural recruitment across all populations. Only three populations have more than 18 individuals, two populations have 18 individuals, and the three remaining populations have fewer than 7 individuals. Most of the populations are small and isolated with little to no connectivity. Marron bacora currently shows overall low numbers of individuals, low numbers of populations, and low numbers of individuals at each population site. The overall resiliency, redundancy, and representation of this species are low.

#### Future Conditions

As part of the SSA, we also developed multiple future condition scenarios to capture the range of uncertainties regarding future threats and the projected responses by marron bacora. Our scenarios included a status quo scenario, which incorporated the current risk factors continuing on the same trajectory that they are on now. We also evaluated two additional future scenarios, one that that considered increasing levels of risk factors resulting in elevated negative effects on marron bacora populations. The other scenario considered improved environmental and habitat conditions through conservation actions including land management and invasive plant and animal management. We determined that the current condition of marron bacora and the projections for all scenarios are consistent with an endangered species (see Determination of Species Status, below); we are not presenting the results of the future scenarios in this proposed rule. Please refer to the SSA report (Service 2019) for the full analysis of future conditions and descriptions of the associated scenarios.

#### Determination of Status for Marron Bacora

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of “endangered species” or “threatened species.” The Act defines an “endangered species” as a species that is “in danger of extinction throughout all or a significant portion of its range,” and a “threatened species” as a species that is “likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.” The Act requires that we determine whether a species meets the definition of “endangered species” or “threatened

species” because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence.

We have determined that the major threats acting on marron bacora are the habitat destruction or modification by nonnative mammal species (e.g., white-tailed deer, goats, pigs, and donkeys) (Factor A); herbivory by nonnative, feral ungulates (Factor C); the lack of natural recruitment (Factor E); absence of dispersers (Factor E); fragmented distribution and small population size (Factor E); lack of genetic diversity (Factor E); effects of climate change (Factor E); and exotic, invasive plants (e.g., guinea grass) (Factor E).

#### Status Throughout All of Its Range

After evaluating threats to the species and assessing the cumulative effect of the threats under the section 4(a)(1) factors, we found that the lack of recruitment will cause a continued decline in the species’ viability through loss of representation, redundancy, and resiliency.

Marron bacora is adapted for life in the dry forests of St. John, USVI, and Tortola, BVI. These islands have endured landscape changes over time and will continue to be affected by human visitation and development. The largest extant population on St. John is within the VINP boundaries and is protected from future development; however, neighboring areas are vulnerable to development as the human population increases. Predation from ungulates is largely responsible for the low levels of seedling recruitment that have caused the lack of natural recruitment. The species is also affected by insect pests along with habitat degradation by nonnative plants and animals.

There are currently 11 known historical and current populations. Three of these populations are considered extirpated, two are represented by only a single individual (possibly functionally extirpated), and five are represented by very low numbers of individuals. Only the single population at Nanny Point has more than 100 individuals, and between 2010 and 2017, this population declined by over half. Seedlings were discovered at this site, likely assisted by release/reproduction due to opening of canopy/moist soil conditions from the



hurricanes, but those seedlings were being affected by ungulate herbivory that was reducing survival. Despite having the greatest number of individuals, Nanny Point, alone, is in danger of extirpation due to little or no reproductive output, the continued presence of nonnative mammals, and habitat degradation from recent hurricanes and invasive plant species. Additionally, it has seen an almost 50 percent reduction in the number of individuals over the last 10 years. Across the entire range, the lack of evidence of reproduction/recruitment is resulting in the continued decline of all populations. Reintroductions to date have resulted in limited survival (28 percent) and have not yielded any increase in reproductive success (either have not achieved reproductive status, or have not successfully reproduced). Resiliency for all extant populations is low as is redundancy and representation. There is very little evidence of natural recruitment, with recent seedling evidence from only two populations. Due to the lack of recruitment across all populations, the species is at risk of becoming functionally extinct.

The threats acting on the species are likely to continue at the existing rate or increase without management of the marron bacora and the identified threats, such as nonnative, invasive species. The species is a narrow endemic and has suffered extirpation of populations across its limited range; most remaining populations have only a single or few individuals. The species has lost redundancy, and remaining populations have low resiliency. The impacts from herbivory by nonnative species have impaired the viability of marron bacora to the point of imminent decline across the species' entire range. Despite efforts to propagate the species and re-establish it in the wild, plants are not reproducing offspring sufficiently to support resilient populations. Thus, after assessing the best available information, we conclude that marron bacora is in danger of extinction throughout all of its range.

#### *Status Throughout a Significant Portion of Its Range*

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. We have determined that marron bacora is in danger of extinction throughout all of its range, and accordingly, did not undertake an analysis of any significant portion of its range. Because we have

determined that marron bacora warrants listing as endangered throughout all of its range, our determination is consistent with the decision in *Center for Biological Diversity v. Everson*, 2020 WL 437289 (D.D.C. Jan. 28, 2020), in which the court vacated the aspect of the 2014 Significant Portion of its Range Policy that provided the Services do not undertake an analysis of significant portions of a species' range if the species warrants listing as threatened throughout all of its range.

#### *Determination of Status*

Our review of the best scientific and commercial data information indicates that marron bacora meets the definition of an endangered species because the species is currently in danger of extinction throughout all of its range due to the low resiliency, redundancy, and representation of the species; threats acting on the species across its range; and the lack of recruitment to support resilient populations. Therefore, we propose to list the marron bacora as an endangered species in accordance with sections 3(6) and 4(a)(1) of the Act.

#### **Available Conservation Measures**

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning consists of preparing draft and final recovery plans, beginning with the development of a recovery outline and making it available to the public within 30 days of a final listing determination. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan also identifies recovery criteria for review of when a species may be ready for downlisting or delisting, and methods for monitoring recovery progress. Recovery plans establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our website (<http://www.fws.gov/endangered>), or from our Caribbean Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (e.g., restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and tribal lands.

If this species is listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the Territory of the U.S. Virgin Islands would be eligible for Federal funds to implement management actions that promote the protection or recovery of the marron bacora. Information on our grant programs that are available to aid species recovery can be found at: <http://www.fws.gov/grants>.

Although marron bacora is only proposed for listing under the Act at this time, please let us know if you are interested in participating in recovery efforts for this species. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include management and any other landscape-altering activities on Federal lands administered by NPS (Virgin Islands National Park).

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to endangered plants. The prohibitions of section 9(a)(2) of the Act, codified at 50 CFR 17.61, make it illegal for any person subject to the jurisdiction of the United States to import or export; remove and reduce to possession from areas under Federal jurisdiction; maliciously damage or destroy on any such area; remove, cut, dig up, or damage or destroy on any other area in knowing violation of any law or regulation of a State or in the course of an violation of a State criminal trespass law; deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce an endangered plant. Certain exceptions apply to employees of the

Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered plants under certain circumstances. Regulations governing permit issuance are codified at 50 CFR 17.62. With regard to endangered plants, a permit may be issued for scientific purposes or for enhancing the propagation or survival of the species. There are also certain statutory exemptions from the prohibitions, which are found in sections 6(g)(2) and 10 of the Act.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a proposed listing on proposed and ongoing activities within the range of the species proposed for listing.

Based on the best available information, the following activities may potentially result in a violation of section 9 of the Act if they are not authorized in accordance with applicable law (this list is not comprehensive):

- Modifying the habitat of the species on Federal lands without authorization (e.g., unauthorized opening of trails within NPS lands);
- Removing, cutting, digging up, or damaging or destroying of the species on any non-Federal lands in knowing violation of any law or regulation of the Territory of the U.S. Virgin Islands or in the course of any violation of the Territory of U.S. Virgin Islands' criminal trespass law.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Caribbean Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

## II. Critical Habitat

### Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the Secretary (*i.e.*, range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (e.g., migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals).

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Designation also does not allow the government or public to access private lands, nor does designation require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the Federal agency would be required to consult with the Service under section 7(a)(2) of the Act. However, even if the Service were to conclude that the proposed activity would result in destruction or adverse modification of the critical habitat, the Federal action agency and the landowner are not required to abandon

the proposed activity, or to restore or recover the species; instead, they must implement “reasonable and prudent alternatives” to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act’s definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat). In identifying those physical or biological features that occur in specific occupied areas, we focus on the specific features that are essential to support the life-history needs of the species, including, but not limited to, water characteristics, soil type, geological features, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic, or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity.

Under the second prong of the Act’s definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. When designating critical habitat, the Secretary will first evaluate areas occupied by the species. The Secretary will only consider unoccupied areas to be essential where a critical habitat designation limited to geographical areas occupied by the species would be inadequate to ensure the conservation of the species. In addition, for an unoccupied area to be considered essential, the Secretary must determine that there is a reasonable certainty both that the area will contribute to the conservation of the species and that the area contains one or more of those physical or biological features essential to the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available.

Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information from the SSA report and information developed during the listing process for the species. Additional information sources may include any generalized conservation strategy, criteria, or outline that may have been developed for the species, the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, other unpublished materials, or experts’ opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act, (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species, and (3) the prohibitions in section 9 of the Act. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to

contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

#### Prudency Determination

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12), require that, to the maximum extent prudent and determinable, the Secretary shall designate critical habitat at the time the species is determined to be an endangered or threatened species. Our regulations (50 CFR 424.12(a)(1)) state that the Secretary may, but is not required to, determine that a designation would not be prudent in the following circumstances:

(i) The species is threatened by taking or other human activity and identification of critical habitat can be expected to increase the degree of such threat to the species;

(ii) The present or threatened destruction, modification, or curtailment of a species’ habitat or range is not a threat to the species, or threats to the species’ habitat stem solely from causes that cannot be addressed through management actions resulting from consultations under section 7(a)(2) of the Act;

(iii) Areas within the jurisdiction of the United States provide no more than negligible conservation value, if any, for a species occurring primarily outside the jurisdiction of the United States;

(iv) No areas meet the definition of critical habitat; or

(v) The Secretary otherwise determines that designation of critical habitat would not be prudent based on the best scientific data available.

There is currently no imminent threat of collection or vandalism identified under Factor B for this species, and identification and mapping of critical habitat is not expected to initiate any such threat. In our SSA report for the marron bacora and this document, we determined that the present or threatened destruction, modification, or curtailment of habitat or range is a threat to marron bacora and that threat in some ways can be addressed by section 7(a)(2) consultation measures. The species occurs under the jurisdiction of the United States and the United Kingdom. We are able to identify areas under U.S. jurisdiction that meet the definition of critical habitat.

Therefore, because none of the circumstances enumerated in our regulations at 50 CFR 424.12(a)(1) has been met and because there are no other circumstances we are aware of for which this designation of critical habitat would be not prudent, we have determined that the designation of critical habitat is prudent for marron bacora.

### Critical Habitat Determinability

Having determined that designation is prudent, under section 4(a)(3) of the Act, we must find whether critical habitat for marron bacora is determinable. Our regulations at 50 CFR 424.12(a)(2) state that critical habitat is not determinable when one or both of the following situations exist:

(i) Data sufficient to perform required analyses are lacking, or

(ii) The biological needs of the species are not sufficiently well known to identify any area that meets the definition of "critical habitat." When critical habitat is not determinable, the Act allows the Service an additional year to publish a critical habitat designation (16 U.S.C. 1533(b)(6)(C)(ii)).

We reviewed the available information pertaining to the biological needs of the species and habitat characteristics where these species is located. This and other information represent the best scientific data available and led us to conclude that the designation of critical habitat is determinable for marron bacora.

### Physical or Biological Features Essential to the Conservation of the Species

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12(b), in determining which areas we will designate as critical habitat from within the geographical area occupied by the species at the time of listing, we consider the physical or biological features that are essential to the conservation of the species and that may require special management considerations or protection. The regulations at 50 CFR 424.02 define "physical or biological features essential to the conservation of the species" as the features that occur in specific areas and that are essential to support the life-history needs of the species, including, but not limited to, water characteristics, soil type, geological features, sites, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic, or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat

conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity. For example, physical features essential to the conservation of a species might include gravel of a particular size required for spawning, alkali soil for seed germination, protective cover for migration, or susceptibility to flooding or fire that maintains necessary early-successional habitat characteristics. Biological features might include prey species, forage grasses, specific kinds or ages of trees for roosting or nesting, symbiotic fungi, or a particular level of nonnative species consistent with conservation needs of the listed species. The features may also be combinations of habitat characteristics and may encompass the relationship between characteristics or the necessary amount of a characteristic essential to support the life history of the species.

In considering whether features are essential to the conservation of the species, the Service may consider an appropriate quality, quantity, and spatial and temporal arrangement of habitat characteristics in the context of the life-history needs, condition, and status of the species. These characteristics include, but are not limited to, space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing (or development) of offspring; and habitats that are protected from disturbance.

The specific physical or biological features required for marron bacora were derived from available observations and current information on the species' habitat, ecology, and life history as described below. To identify the physical and biological needs of the species, we have relied on current conditions at locations where marron bacora occurs. In addition, available literature on the species' genetics, reproductive biology, and habitat modeling were used (Stanford et al. 2013; Anderson et al. 2015; Palumbo et al. 2016).

Marron bacora is a shrub endemic to the islands of St. John (USVI) and Tortola (BVI), and its distribution is restricted to the subtropical dry forest life zone (Ewel and Whitmore 1973, p. 72). The vegetation in this life zone usually consists of a nearly continuous, single-layered canopy, with little groundcover. Tree heights usually do not exceed 49 ft (15 m) and crowns are typically broad, spreading, and flattened

(Ewel and Whitmore 1973, p. 72). It is estimated that more than 80 percent of the overall land surface of St. John is covered by subtropical dry forest (Stanford et al. 2013, p. 173).

The climate within the subtropical dry forest life zone (*sensu* Holdridge 1967) where marron bacora occurs is seasonal with most of the runoff between September and October, and mean annual rainfall ranging from 24 to 40 inches (600 to 1,110 millimeters) (Lugo et al. 1978, p. 278). Moisture availability as a function of shallow soils plus low rainfall and its seasonality determine the forest productivity, growth characteristics, water loss, and physiognomy in subtropical dry forest life zones where temperature tends to be constant throughout the year (Lugo et al. 1978, p. 278). The most recently discovered populations of marron bacora occur on dry and poor soils (Ray and Stanford 2005, p. 6). Historically, the species was locally abundant in exposed topography on sites disturbed by erosion (depositional zones at the toe of the slopes), areas that have received moderate grazing, and around ridgelines as an understory component in diverse woodland communities (Carper and Ray 2008, p. 1).

The specific microhabitat requirements of marron bacora remain unknown, but like other species within the genus *Solanum*, marron bacora may be adapted to poor soils and some sort of natural disturbance (*e.g.*, hurricanes). The habitat has been fragmented and degraded due to the historic land-use changes.

Based on the hermaphroditic and dioecious biology of marron bacora, the species requires cross-pollination. Recent surveys by the Service (May 2017) recorded carpenter bees (*Xylocopa mordax*) and honey bees (*Apis mellifera*) visiting the flowers of marron bacora at Nanny Point (USFWS 2017, p. 7). Nanny Point is the largest known population and harbors the majority of the species' genetic diversity. It is the only population showing some evidence of natural recruitment (Stanford et al. 2013, p. 178). Further habitat modification and fragmentation at Nanny Point may adversely affect the genetic exchange (cross-pollination) with other natural populations (*e.g.*, Johns Folly), and may further reduce suitable habitat needed for seedling recruitment, thus compromising the species' viability.

We cannot attribute the lack of natural recruitment to low seed viability, as germination under nursery conditions is almost 100 percent (Ray and Stanford 2005, p. 6). Fruit and seedling predation

by feral ungulates (e.g., deer and goats) may be largely responsible for the low levels of seedlings recruitment and the predominant old population structure of the species. In addition, despite the ability of marron bacora to colonize disturbed areas, any seedling or juvenile may be outcompeted by exotic, invasive plant species such Guinea grass (*Megathyrsus maximus*) and tan-tan (*Leucaena leucocephala*) (IC 2018, p. 3). Therefore, in order to secure viable populations of marron bacora, the species needs extended forested habitat dominated by native plants that provides for connectivity between populations to promote cross-pollination and gene flow, and the habitat conditions for long-term recruitment in the absence of invasive plants and feral ungulates.

As indicated above, marron bacora is a shrub endemic to the dry forest of St. John (USVI) and Tortola (BVI). At approximately 53 square kilometers (20.5 square miles) in area, the island of St. John has the greatest amount of forest cover (91.6 percent) and mature secondary forest (20 percent) in relation to land area compared to the adjacent islands (USVI). NPS, under its Organic Act, is responsible for managing the National Parks to conserve their scenery, natural and historic objects, and wildlife. In addition, the National Parks Omnibus Management Act of 1998 requires NPS to inventory and monitor its natural resources. NPS has implemented its resource management responsibilities through its management policies, section 4.4.1, which state that NPS “will maintain as parts of the natural ecosystems of parks all plants and animals native to park ecosystems” (NPS 2006, p. 42).

#### *Summary of Essential Physical or Biological Features*

We derive the specific physical or biological features essential to the conservation of the marron bacora from studies of the species’ habitat, ecology, and life history as described below. Additional information can be found in the SSA report (Service 2018, entire; available on <http://www.regulations.gov> under Docket No. FWS–R4–ES–2019–0050. We have determined that the following physical or biological features are essential to the conservation of marron bacora:

- (i) Native forest within the subtropical dry forest life zone in St. John.
- (ii) Dry scrubland, deciduous forest, and semi-deciduous forest vegetation at elevations lower than 150 meters (492 feet).
- (iii) Continuous native forest cover with low abundance of exotic plant

species (e.g., *Leucaena leucocephala* and *Megathyrsus maximus*), and that provides the availability of pollinators to secure cross-pollination between populations.

(iv) Habitat quality evidenced by the presence of regional endemic plant species, including *Zanthoxylum thomsonianum*, *Peperomia wheeleri*, *Eugenia earhartii*, *Eugenia sessiliflora*, *Cordia rickseckeri*, *Croton fishlockii*, *Malpighia woodburyana*, *Bastardiopsis eggersii*, *Machaonia woodburyana*, and *Agave missionum*.

(v) Open understory with appropriate microhabitat conditions, including shaded conditions and moisture availability, to support seed germination and seedling recruitment.

#### **Special Management Considerations or Protection**

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features which are essential to the conservation of the species and which may require special management considerations or protection. All the proposed units are occupied habitat by the species at the time of proposed listing (i.e., are currently occupied) and have mixed ownership of predominantly Federal lands (97 percent) and private lands (3 percent) (see Table 4, below).

The features essential to the conservation of marron bacora may require special management considerations or protection to ameliorate the following stressors: Habitat modification and fragmentation (development); erosion (from storm water runoff); feral ungulates (predation); and invasive, exotic plants (habitat intrusion). Special management considerations or protection may be required within critical habitat areas to ameliorate these stressors, and include, but are not limited to: (1) Protect and restore native forests to provide connectivity between known populations and secure availability of pollinators and dispersers; (2) reduce density of feral ungulates; (3) remove and control invasive plants; and (4) avoid physical alterations of habitat to secure microhabitat conditions.

#### **Criteria Used To Identify Critical Habitat**

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we review available information pertaining to the habitat

requirements of the species and identify specific areas within the geographical area occupied by the species at the time of listing and any specific areas outside the geographical area occupied by the species to be considered for designation as critical habitat. We are not currently proposing to designate any areas outside the geographical area occupied by the species because we have not identified any unoccupied areas that meet the definition of critical habitat. The proposed critical habitat designation includes all currently occupied areas within the historical range that have retained the necessary physical or biological features that will allow for the maintenance and expansion of these existing populations. The occupied areas are sufficient for the conservation of the species.

For areas within the geographic area occupied by the species at the time of listing (i.e., areas that are currently occupied), we delineated critical habitat unit boundaries as described below. The primary sources of data used to define marron bacora proposed critical habitat include a habitat suitability model (by selecting areas identified as containing moderate and high quality habitat for the species) developed by Palumbo et al. (2016), and validated by recent habitat assessments throughout the species’ range. The habitat suitability model included elevation, slope, soil association, and vegetation types and identified approximately 694.94 hectares (ha) (1,717.23 acres (ac)) of high-quality habitat, 1,274.94 ha (3150.45 ac) of moderate-quality habitat, 1,568.53 ha (3,875.92 ac) of low-quality habitat, 1,343.16 ha (3,319.16 ac) of poor-quality habitat, and 186.88 ha (461.79 ac) of unsuitable habitat (Palumbo et al. 2016, p. 5) on St. John. When adding all hectares of high- and moderate-quality habitat, approximately 32 percent of the land area of VINP may be suitable habitat for marron bacora (Palumbo et al. 2016, p. 5). However, the latest discovered population of marron bacora on St. John at Reef Bay Trail (USFWS 2017, p. 11) occurs at elevations higher than what was provided by the model results, thus, the amount of suitable habitat for marron bacora at St. John may include areas higher in elevation indicating more suitable habitat than previously reported (Palumbo et al. 2016, p. 5). Therefore, to delineate the critical habitat unit boundaries the areas originally identified as moderate and high quality for the species identified by Palumbo et al. (2016, p. 5) were slightly expanded to include further habitat at higher elevations consistent with the

recently discovered populations (Reef Bay Trail).

We analyzed recent satellite images to identify areas dominated by native forest vegetation associated to known localities for the species within St. John. Finally, we adjusted the elevation to 150 m (492 ft), as the latest discovered population of marron bacora was at an elevation higher than the records available to Palumbo et al. (2016). We further cropped the units using the contour of the coastline, excluding wetland areas (*e.g.*, ponds) and developed areas. Critical habitat units were then mapped using ArcGIS Desktop version 10.6.1, a geographic information system (GIS) program. We identified two units, North and South, falling within these parameters.

When determining proposed critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features necessary for marron bacora. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the

exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this proposed rule have been excluded by text in the proposed rule and are not proposed for designation as critical habitat. Therefore, if the critical habitat is finalized as proposed, a Federal action involving these lands would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the adjacent critical habitat.

We propose to designate as critical habitat lands that we have determined are occupied at the time of listing (*i.e.*, currently occupied), that contain one or more of the physical or biological features that are essential to support life-history processes of the species, and that may require special management considerations or protections. The two units, South and North, each contain all of the identified physical or biological features and support multiple life-history processes for marron bacora.

The proposed critical habitat designation is defined by the map or maps, as modified by any accompanying

regulatory text, presented at the end of this document under Proposed Regulation Promulgation. We include more detailed information on the boundaries of the proposed critical habitat designation in the preamble of this document. We will make the coordinates or plot points or both on which each map is based available to the public on <http://www.regulations.gov> at Docket No. FWS-R4-ES-2019-0050, or on our internet site, <https://www.fws.gov/southeast/caribbean>.

#### Proposed Critical Habitat Designation

We are proposing two units as critical habitat for marron bacora. The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for marron bacora. The two units we propose as critical habitat are: (1) South and (2) North. Table 4 shows the proposed critical habitat units, the land ownership, and the approximate area of each unit. Both units are occupied at the time of listing.

TABLE 4—PROPOSED CRITICAL HABITAT UNITS FOR MARRON BACORA WITH OWNERSHIP, AREA, AND OCCUPIED STATUS

[Area estimates reflect all land within critical habitat unit boundaries]

Critical habitat unit	Land ownership by type	Size of unit in acres (hectares)*	Occupied?
1. South .....	Federal (NPS) Private .....	1,635 ac (664 ha) .....	Yes.
		71 ac (29 ha).	
		<i>Unit total:</i> 1,706 ac (690 ha).	
2. North .....	Federal (NPS) .....	844 ac (343 ha) .....	Yes.
Total .....	.....	2,549 ac (1,033 ha) .....	

**Note:** Area sizes may not sum exactly due to rounding.

We present brief descriptions of both units, and reasons why they meet the definition of critical habitat for marron bacora, below.

#### Unit 1: South

Unit 1 consists of a total of 1,706 ac (690 ha). Approximately 1,635 ac (664 ha) are managed by NPS within the Virgin Islands National Park (VINP), and approximately 71 ac (29 ha) are in private ownership adjacent to the east corner of VINP. This unit is within the geographical area occupied by marron bacora at the time of the proposed listing. This unit harbors the largest population and core of known individuals of marron bacora in St. John, USVI. It contains all of the identified physical or biological features essential to the conservation of marron bacora.

Ongoing and potential threats or activities that occur in this unit are urban and tourist development, trampling and predation by feral ungulates, and forest management actions (*e.g.*, conservation/restoration, recreation, trail maintenance, roads, control of feral mammals, and fire management control). Special management considerations or protection measures to reduce or alleviate the threats may include minimizing or avoiding habitat modification or fragmentation from urban and recreational development, protecting and restoring native forests to provide connectivity between known populations and to secure availability of pollinators and dispersers, reducing the density of feral ungulates, and removing and controlling invasive plants.

#### Unit 2: North

Unit 2 consists of a total of 844 ac (343 ha) of federally owned land managed by NPS within the VINP. This unit is within the geographical area occupied by marron bacora at the time of proposed listing and harbors the habitat structure that supports marron bacora's viability. This unit contains all of the identified physical or biological features essential to the conservation of marron bacora.

Ongoing and potential threats or activities that occur in this unit are roaming feral mammals and forest management actions (*e.g.*, conservation/restoration, recreation, trails, roads, control of feral mammals, and fire management control). Special management considerations or protection measures to reduce or alleviate the threats may include

protecting and restoring native forests to provide connectivity between known populations and to secure availability of pollinators and dispersers, reducing density of feral ungulates, removing and controlling invasive plants, and avoiding physical modification of habitat to secure microhabitat conditions.

## Effects of Critical Habitat Designation

### Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of proposed critical habitat.

We published a final regulation with a revised definition of destruction or adverse modification on August 27, 2019 (84 FR 44976). Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat as a whole for the conservation of a listed species.

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Examples of actions that are subject to the section 7 consultation process are actions on State, tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat—and actions on State, tribal, local, or private lands that are not federally funded, authorized, or carried out by a Federal agency—do not require section 7 consultation.

Compliance with the requirements of section 7(a)(2), is documented through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not

likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define “reasonable and prudent alternatives” (at 50 CFR 402.02) as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency’s legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Director’s opinion, avoid the likelihood of jeopardizing the continued existence of the listed species and/or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 set forth requirements for Federal agencies to reinstate formal consultation on previously reviewed actions. These requirements apply when the Federal agency has retained discretionary involvement or control over the action (or the agency’s discretionary involvement or control is authorized by law) and, subsequent to the previous consultation, we have listed a new species or designated critical habitat that may be affected by the Federal action, or the action has been modified in a manner that affects the species or critical habitat in a way not considered in the previous consultation. In such situations, Federal agencies sometimes may need to request reinitiation of consultation with us, but the regulations also specify some exceptions to the requirement to reinstate consultation on specific land management plans after subsequently listing a new species or designating new critical habitat. See the regulations for a description of those exceptions.

### Application of the “Destruction or Adverse Modification” Standard

The key factor related to the destruction or adverse modification determination is whether implementation of the proposed Federal action directly or indirectly alters the designated critical habitat in a way that appreciably diminishes the value of the critical habitat as a whole for the conservation of the listed species. As discussed above, the role of critical habitat is to support physical or biological features essential to the conservation of a listed species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may violate 7(a)(2) of the Act by destroying or adversely modifying such habitat, or that may be affected by such designation.

Activities that the Services may, during a consultation under section 7(a)(2) of the Act, find are likely to destroy or adversely modify critical habitat include, but are not limited to:

(1) Actions that would significantly alter the structure of the native forest. Such activities could include, but are not limited to, habitat fragmentation and development (e.g., from recreational facilities and activities like trails, hiking, bicycling, using all-terrain vehicles (ATVs); herbicide and pesticide use on private lands; and urban and tourist developments). In addition, habitat modification may promote habitat encroachment by invasive plant species, thus promoting favorable conditions for human-induced fires. These activities could degrade the habitat necessary for marron bacora populations to expand.

(2) Actions that would increase habitat modification. Such activities could include, but are not limited to, predation and erosion cause by feral animals, and risk of human-induced fires. These activities could significantly reduce the species’ recruitment and could exacerbate the vulnerability of the species to stochastic events (e.g., hurricanes).

### Exemptions

#### Application of Section 4(a)(3) of the Act

Section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that the Secretary shall not designate as critical habitat any lands or other geographic areas owned or controlled by the Department of Defense (DoD), or designated for its use, that are subject to



an integrated natural resources management plan (INRMP) prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation. There are no DoD lands with a completed INRMP within the proposed critical habitat designation.

#### **Consideration of Impacts Under Section 4(b)(2) of the Act**

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making the determination to exclude a particular area, the statute on its face, as well as the legislative history, are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

The first sentence in section 4(b)(2) of the Act requires that we take into consideration the economic, national security, or other relevant impacts of designating any particular area as critical habitat. We describe below the process that we undertook for taking into consideration each category of impacts and our analyses of the relevant impacts.

#### *Consideration of Economic Impacts*

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. To assess the probable economic impacts of a designation, we must first evaluate specific land uses or activities and projects that may occur in the area of the critical habitat. We then must evaluate the impacts that a specific critical habitat designation may have on restricting or modifying specific land uses or activities for the benefit of the species and its habitat within the areas proposed. We then identify which conservation efforts may be the result of the species being listed under the Act versus those attributed solely to the designation of critical habitat for this particular species. The probable

economic impact of a proposed critical habitat designation is analyzed by comparing scenarios both “with critical habitat” and “without critical habitat.”

The “without critical habitat” scenario represents the baseline for the analysis, which includes the existing regulatory and socio-economic burden imposed on landowners, managers, or other resource users potentially affected by the designation of critical habitat (e.g., under the Federal listing as well as other Federal, State, and local regulations). The baseline, therefore, represents the costs of all efforts attributable to the listing of the species under the Act (*i.e.*, conservation of the species and its habitat incurred regardless of whether critical habitat is designated). The “with critical habitat” scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts would not be expected without the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat, above and beyond the baseline costs. These are the costs we use when evaluating the benefits of inclusion and exclusion of particular areas from the final designation of critical habitat should we choose to conduct a discretionary 4(b)(2) exclusion analysis.

For this particular designation, we developed an incremental effects memorandum (IEM) considering the probable incremental economic impacts that may result from this proposed designation of critical habitat. The information contained in our IEM was then used to develop a screening analysis of the probable effects of the designation of critical habitat for marron bacora (IEc 2019). We began by conducting a screening analysis of the proposed designation of critical habitat in order to focus our analysis on the key factors that are likely to result in incremental economic impacts. The purpose of the screening analysis is to filter out the geographic areas in which the critical habitat designation is unlikely to result in probable incremental economic impacts. In particular, the screening analysis considers baseline costs (*i.e.*, absent critical habitat designation) and includes probable economic impacts where land and water use may be subject to conservation plans, land management plans, best management practices, or regulations that protect the habitat area as a result of the Federal listing status of the species. The screening analysis filters out particular

areas of critical habitat that are already subject to such protections and are, therefore, unlikely to incur incremental economic impacts. Ultimately, the screening analysis allows us to focus our analysis on evaluating the specific areas or sectors that may incur probable incremental economic impacts as a result of the designation. The screening analysis also assesses whether units are unoccupied by the species and may require additional management or conservation efforts as a result of the critical habitat designation for the species that may incur incremental economic impacts. This screening analysis combined with the information contained in our IEM are what we consider our draft economic analysis (DEA) of the proposed critical habitat designation for the marron bacora; our DEA is summarized in the narrative below.

Executive Orders (E.O.s) 12866 and 13563 direct Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consistent with the E.O. regulatory analysis requirements, our effects analysis under the Act may take into consideration impacts to both directly and indirectly affected entities, where practicable and reasonable. If sufficient data are available, we assess to the extent practicable the probable impacts to both directly and indirectly affected entities.

As part of our screening analysis, we considered the types of economic activities that are likely to occur within the areas likely to be affected if we adopt the critical habitat designation as proposed. In our evaluation of the probable incremental economic impacts that may result from the proposed designation of critical habitat for the marron bacora, first we identified, in the IEM dated September 16, 2019 (Service 2019, entire), probable incremental economic impacts associated with the following categories of activities: (1) Federal lands management from recreational activities (e.g., hiking, bicycles, ATVs), trails, grazing, and erosion and fire management control; (2) transportation (road construction and maintenance); (3) feral mammal control; and (4) tourism or residential developments. We considered each industry or category individually.

Additionally, we considered whether these activities have any Federal involvement. Critical habitat designation generally will not affect activities that do not have any Federal involvement; under the Act, designation of critical habitat only affects activities conducted, funded, permitted, or



authorized by Federal agencies. If we list the species, in areas where marron bacora is present, Federal agencies would be required to consult with the Service under section 7 of the Act on activities they fund, permit, or implement that may affect the species. If, when we list the species, we also finalize this proposed critical habitat designation, consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into that existing consultation process.

In our IEM, we attempted to clarify the distinction between the effects that will result from the species being listed and those attributable to the critical habitat designation (*i.e.*, difference between the jeopardy and adverse modification standards) for marron bacora's critical habitat. Because the designation of critical habitat for marron bacora is proposed concurrently with the listing, it has been our experience that it is more difficult to discern which conservation efforts are attributable to the species being listed and those which will result solely from the designation of critical habitat. However, the following specific circumstances in this case help to inform our evaluation: (1) The essential physical or biological features identified for critical habitat are the same features essential for the life requisites of the species, and (2) any actions that would result in sufficient harm to constitute jeopardy to marron bacora would also likely adversely affect the essential physical or biological features of critical habitat. The IEM outlines our rationale concerning this limited distinction between baseline conservation efforts and incremental impacts of the designation of critical habitat for this species. This evaluation of the incremental effects has been used as the basis to evaluate the probable incremental economic impacts of this proposed designation of critical habitat. The following describes the information provided in the DEA:

#### Section 7 Costs

The economic costs of implementing the rule associated with section 7 of the Act would most likely be limited to additional administrative effort to consider adverse modification during consultations. This finding is based on the following factors:

(1) For the purposes of consultation, the Service considers both proposed critical habitat units to be occupied by the species. Thus, incremental consultations resulting solely from the designation of critical habitat are unlikely.

(2) Project modifications likely to be recommended by the Service to avoid

adverse modification of critical habitat are anticipated to be the same as those needed to avoid jeopardizing the species.

Based on a review of available information, no more than two technical assistance projects and no more than one informal consultation are likely to occur in a given year. The additional administrative cost of addressing adverse modification in these projects is not expected to exceed \$3,300 in a given year.

#### Other Costs

The designation of critical habitat is not expected to trigger additional requirements under territorial or local regulations. We are unable to quantify the degree to which the public's perception of possible restrictions on the use of public land could reduce the value of private property. We recognize that a number of factors may already result in perception-related effects, including the presence of marron bacora and other federally listed species, which may temper any additional perception-related effects of critical habitat designation.

As we stated earlier, we are soliciting data and comments from the public on the DEA, as well as all aspects of the proposed rule and our required determinations. During the development of the final designation, we will consider the information presented in the DEA and any information on economic impacts we receive during the public comment period to determine whether any specific areas should be excluded from the final critical habitat designation under authority of section 4(b)(2) and our implementing regulations at 50 CFR 424.19. We may revise the proposed rule or supporting documents to incorporate or address information we receive during the public comment period. In particular, in the final designation, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area, provided the exclusion will not result in the extinction of this species.

#### Consideration of National Security Impacts

In preparing this proposal, we have determined that the lands within the proposed designation of critical habitat for marron bacora are not owned, managed, or used by the Department of Defense or the Department of Homeland Security, and, therefore, we anticipate no impact on national security. However, during the development of a final designation, we will consider any

additional information we receive through the public comment period on the impacts of the proposed designation on national security or homeland security to determine whether any specific areas should be excluded from the final critical habitat designation under authority of section 4(b)(2) and our implementing regulations at 50 CFR 424.19.

#### Consideration of Other Relevant Impacts

We have not considered any areas for exclusion from critical habitat. However, the final decision on whether to exclude any areas will be based on the best scientific data available at the time of the final designation, including information obtained during the comment period and information about the economic impact of designation. Accordingly, we have prepared a draft economic analysis concerning the proposed critical habitat designation, which is available for review and comment (see **ADDRESSES**).

#### Exclusions

Under section 4(b)(2) of the Act, we consider any other relevant impacts, in addition to economic impacts and impacts on national security discussed above. We consider a number of factors including whether there are permitted conservation plans covering the species in the area such as HCPs, safe harbor agreements (SHAs), or candidate conservation agreements with assurances (CCAAs), or whether there are non-permitted conservation agreements and partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at the existence of tribal conservation plans and partnerships and consider the government-to-government relationship of the United States with tribal entities. We also consider any social impacts that might occur because of the designation.

In preparing this proposal, we have determined that there are currently no HCPs or other management plans for marron bacora, and the proposed designation does not include any tribal lands or trust resources. We anticipate no impact on tribal lands, partnerships, or HCPs from this proposed critical habitat designation. Additionally, as described above, we are not proposing to exclude any particular areas on the basis of impacts to national security or economic impacts.

During the development of a final designation, we will consider any additional information we receive through the public comment period regarding other relevant impacts to

determine whether any specific areas should be excluded from the final critical habitat designation under authority of section 4(b)(2) and our implementing regulations at 50 CFR 424.19.

### Required Determinations

#### *Clarity of the Rule*

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (1) Be logically organized;
- (2) Use the active voice to address readers directly;
- (3) Use clear language rather than jargon;
- (4) Be divided into short sections and sentences; and
- (5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

#### *Regulatory Planning and Review* (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has waived their review regarding their significance determination of this proposed rule.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

#### *Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than \$5 million in annual sales, general and heavy construction businesses with less than \$27.5 million in annual business, special trade contractors doing less than \$11.5 million in annual business, and agricultural businesses with annual sales less than \$750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term "significant economic impact" is meant to apply to a typical small business firm's business operations.

Under the RFA, as amended, and as understood in the light of recent court decisions, Federal agencies are required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself; in other words, the RFA does not require agencies to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat

protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried out by the agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7, only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, it is our position that only Federal action agencies would be directly regulated if we adopt the proposed critical habitat designation. There is no requirement under the RFA to evaluate the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities. Therefore, because no small entities would be directly regulated by this rulemaking, the Service certifies that, if made final as proposed, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small entities.

In summary, we have considered whether the proposed designation would result in a significant economic impact on a substantial number of small entities. For the above reasons and based on currently available information, we certify that, if made final, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

#### *Executive Order 13771*

We do not believe this proposed rule is an E.O. 13771 ("Reducing Regulation and Controlling Regulatory Costs") (82 FR 9339, February 3, 2017) regulatory action because we believe this rule is not significant under E.O. 12866; however, the Office of Information and Regulatory Affairs has waived their review regarding their E.O. 12866 significance determination of this proposed rule.

#### *Energy Supply, Distribution, or Use—* *Executive Order 13211*

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. In our economic analysis, we did not find that the designation of this proposed critical habitat will significantly affect energy supplies, distribution, or use due to the absence of any energy supply or distribution lines in the proposed

critical habitat designation. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

*Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.), we make the following finding:

(1) This proposed rule would not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both “Federal intergovernmental mandates” and “Federal private sector mandates.” These terms are defined in 2 U.S.C. 658(5)–(7). “Federal intergovernmental mandate” includes a regulation that “would impose an enforceable duty upon State, local, or tribal governments” with two exceptions. It excludes “a condition of Federal assistance.” It also excludes “a duty arising from participation in a voluntary Federal program,” unless the regulation “relates to a then-existing Federal program under which \$500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,” if the provision would “increase the stringency of conditions of assistance” or “place caps upon, or otherwise decrease, the Federal Government’s responsibility to provide funding,” and the State, local, or tribal governments “lack authority” to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. “Federal private sector mandate” includes a regulation that “would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.”

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for

an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule would significantly or uniquely affect small governments because the lands proposed for critical habitat designation are primarily Federal lands (97 percent), with a small amount of private land (3 percent). Small governments would be affected only to the extent that any programs involving Federal funds, permits, or other authorized activities must ensure that their actions would not adversely affect the designated critical habitat. Therefore, a Small Government Agency Plan is not required.

*Takings—Executive Order 12630*

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for marron bacora in a takings implications assessment. The Act does not authorize the Service to regulate private actions on private lands or confiscate private property as a result of critical habitat designation. Designation of critical habitat does not affect land ownership, or establish any closures, or restrictions on use of or access to the designated areas. Furthermore, the designation of critical habitat does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. However, Federal agencies are prohibited from carrying out, funding, or authorizing actions that would destroy or adversely modify critical habitat. A takings implications assessment has been completed for the proposed designation of critical habitat for marron bacora, and it concludes that, if adopted, this designation of critical habitat does not pose significant takings implications for lands within or affected by the designation.

*Federalism—Executive Order 13132*

In accordance with E.O. 13132 (Federalism), this proposed rule does not have significant Federalism effects. A federalism summary impact statement is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of this proposed critical habitat designation with, appropriate State resource agencies. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, the proposed rule does not have substantial direct effects either on the States, or on the relationship between the Federal Government and the States, or on the distribution of powers and responsibilities among the various levels of government. The proposed designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more clearly defined, and the physical or biological features of the habitat necessary for the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist State and local governments in long-range planning because they no longer have to wait for case-by-case section 7 consultations to occur.

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) of the Act would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

*Civil Justice Reform—Executive Order 12988*

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed designating critical habitat in accordance with the provisions of the

Act. To assist the public in understanding the habitat needs of the species, this proposed rule identifies the elements of physical or biological features essential to the conservation of the species. The proposed areas of designated critical habitat are presented on maps, and the proposed rule provides several options for the interested public to obtain more detailed location information, if desired.

*Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)*

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) is not required. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

*National Environmental Policy Act (42 U.S.C. 4321 et seq.)*

It is our position that, outside the jurisdiction of the U.S. Court of Appeals

for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County v. Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

#### References Cited

A complete list of references cited in this rulemaking is available on the internet at <http://www.regulations.gov> and upon request from the Caribbean Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

#### Authors

The primary authors of this proposed rule are the staff members of the Fish and Wildlife Service's Species Assessment Team and the Caribbean Ecological Services Field Office.

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

#### Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

#### PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.12(h) by adding an entry for “*Solanum conocarpum*” in alphabetical order under FLOWERING PLANTS to the List of Endangered and Threatened Plants to read as set forth below:

#### § 17.12 Endangered and threatened plants.

\* \* \* \* \*

(h) \* \* \*

Scientific name	Common name	Where listed	Status	Listing citations and applicable rules
<b>Flowering Plants</b>				
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
<i>Solanum conocarpum</i> ....	Marron bacora .....	Wherever found .....	E	[Federal Register citation when published as a final rule]; 50 CFR 17.96(a). <sup>CH</sup>
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

#### ■ 3. Amend § 17.96(a) by:

■ a. Adding Family Solanaceae in alphabetical order to the list of families; and

■ b. Adding an entry for “*Solanum conocarpum*” in alphabetical order under Family Solanaceae.

The additions read as set forth below.

#### § 17.96 Critical habitat—plants.

##### (a) Flowering plants.

\* \* \* \* \*

Family Solanaceae: *Solanum conocarpum* (marron bacora)

(1) Critical habitat units are depicted for St. John, U.S. Virgin Islands, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of marron bacora consist of the following components:

(i) Native forest within the subtropical dry forest life zone in St. John.

(ii) Dry scrubland, deciduous forest, and semi-deciduous forest vegetation at elevations lower than 150 meters (492 feet).

(iii) Continuous native forest cover with low abundance of exotic plant species (e.g., *Leucaena leucocephala* and *Megathyrsus maximus*), and that provides the availability of pollinators to secure cross-pollination between populations.

(iv) Habitat quality evidenced by the presence of regional endemic plant species, including *Zanthoxylum thomsonianum*, *Peperomia wheeleri*, *Eugenia earhartii*, *Eugenia sessiliflora*, *Cordia rickseckeri*, *Croton fishlockii*, *Malpighia woodburyana*, *Bastardiopsis eggersii*, *Machaonia woodburyana*, and *Agave missionum*.

(v) Open understory with appropriate microhabitat conditions, including shaded conditions and moisture availability, to support seed germination and seedling recruitment.

(3) Critical habitat does not include human-made structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within

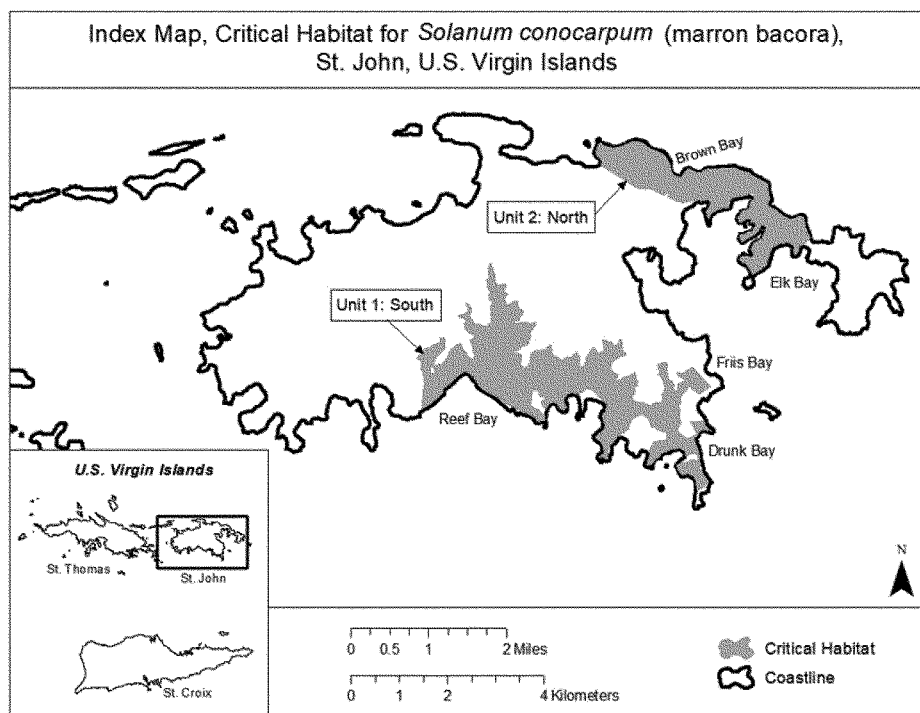
the legal boundaries on the effective date of this rule.

(4) *Critical habitat map units.* Data layers defining map units were created using ArcMap version 10.6.1 (Environmental Systems Research Institute, Inc.), a Geographic Information Systems program on a base of USA Topo Map and the program world imagery. Critical habitat units were then mapped using NAD 1983, State Plane Puerto Rico and Virgin Islands FIPS 5200 coordinates. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site, <https://www.fws.gov/southeast/caribbean>, or <http://www.regulations.gov> at Docket No. FWS-R4-ES-2019-0050, and at the field office responsible for this designation. You may obtain field office location information by contacting one

of the Service regional offices, the

addresses of which are listed at 50 CFR  
2.2.

(5) *Note:* Index map follows:



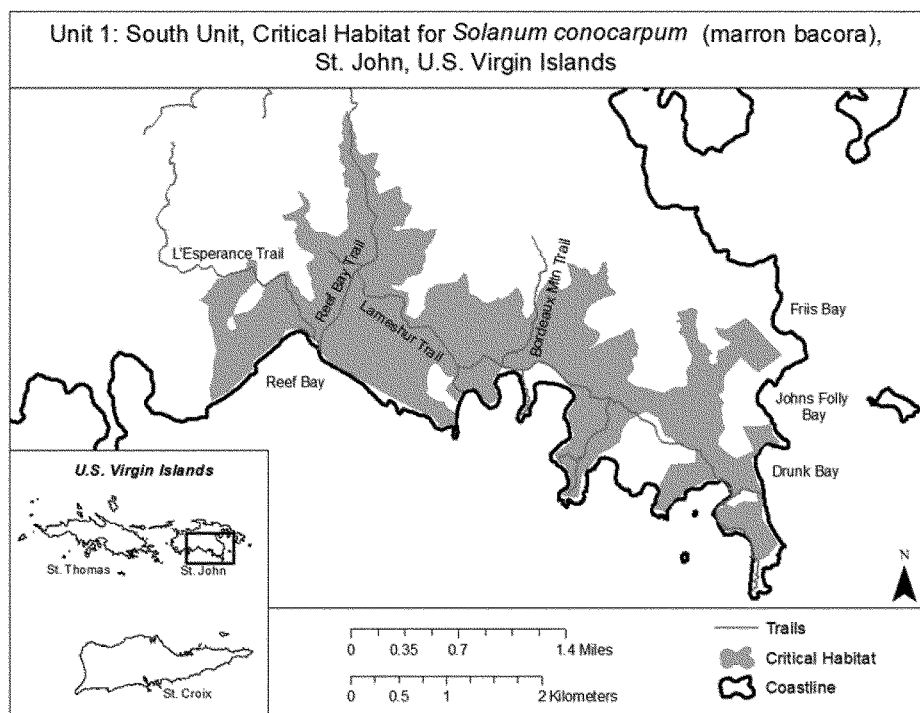
(6) Unit 1: South Unit, St. John, U.S. Virgin Islands.

(i) *General description:* Unit 1 consists of 1,706 acres (690 hectares) in estates Rustenberg & Adventure, Sieben,

Mollendal & Little Reef Bay, Hope, Reef Bay, Lameshur Complex, Mandal, Concordia A, Concordia B, St. Quaco & Zimmerman, Hard Labor, Johns Folly and Friis. Lands are composed of 1,635

ac (664 ha) of Federal lands managed by the U.S. National Park Service and 71 acres (29 hectares) of privately owned lands.

(ii) Map of Unit 1 follows:



(7) Unit 2: North Unit, St. John, U.S. Virgin Islands.

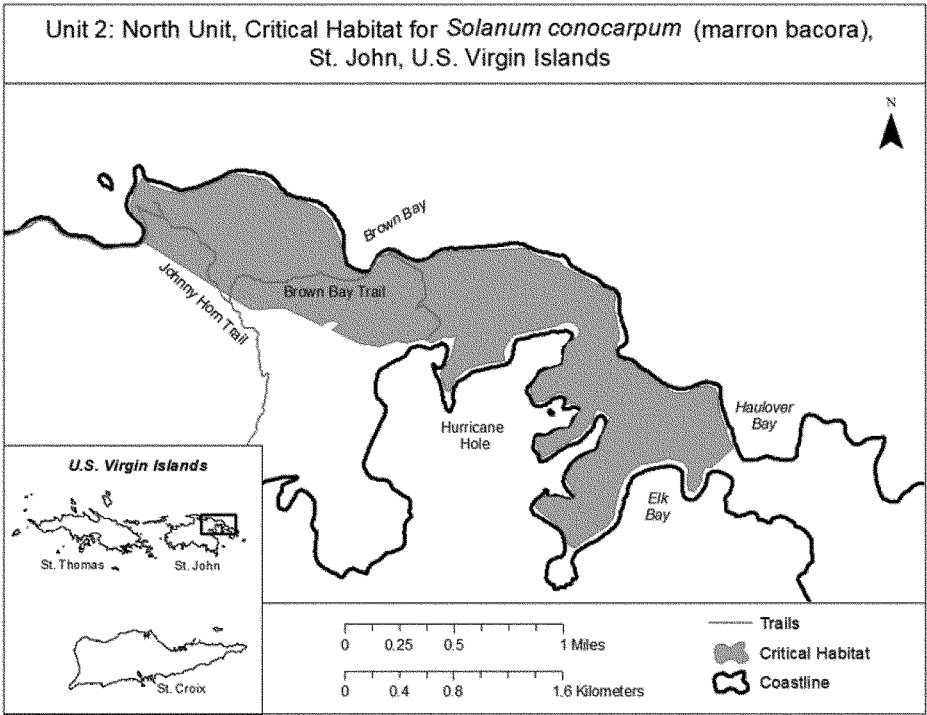
(i) General description: Unit 2 consists of 844 acres (343 hectares) in

estates Leinster Bay, Browns Bay, Zootenvaal, Hermitage, Mt. Pleasant and Retreat, Haulover, and Turner Point.

The unit is composed entirely of Federal

lands managed by the U.S. National Park Service.

(ii) Map of Unit 2 follows:



\* \* \* \* \*

Aurelia Skipwith,  
Director, U.S. Fish and Wildlife Service.  
[FR Doc. 2020–17091 Filed 8–25–20; 8:45 am]  
BILLING CODE 4333–15–P

# Notices

Federal Register

Vol. 85, No. 166

Wednesday, August 26, 2020

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. APHIS–2019–0055]

#### Notice of Determination of the Highly Pathogenic Avian Influenza and Newcastle Disease Status of Romania

**AGENCY:** Animal and Plant Health Inspection Service, Agriculture (USDA).

**ACTION:** Notice.

**SUMMARY:** We are advising the public that we are recognizing Romania as being free of highly pathogenic avian influenza and Newcastle disease. This recognition is based on a risk evaluation we prepared and made available for public review and comment.

**DATES:** This change of disease status will be recognized on August 26, 2020.

**FOR FURTHER INFORMATION CONTACT:** Mr. Javier Vargas, Senior Staff Officer, Regionalization Evaluation Services, Veterinary Services, APHIS, USDA, 4700 River Road, Unit 38, Riverdale, MD 20737–1231; [Javier.vargas@usda.gov](mailto:Javier.vargas@usda.gov); (301) 851–3316.

**SUPPLEMENTARY INFORMATION:** The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States in order to prevent the introduction of various animal diseases, including highly pathogenic avian influenza (HPAI) and Newcastle disease. Within part 94, § 94.6 contains requirements governing the importation of carcasses, meat, parts or products of carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds from regions where HPAI and Newcastle disease is considered to exist.

In accordance with § 94.6(a)(1)(i), the Animal and Plant Health Inspection Service (APHIS) maintains a list of regions in which Newcastle disease is not considered to exist. Paragraph

(a)(1)(ii) states that APHIS will add a region to this list after it conducts an evaluation of the region and finds that Newcastle disease is not likely to be present in its commercial bird or poultry populations.

In accordance with § 94.6(a)(2)(i), APHIS maintains a list of regions in which HPAI is considered to exist. Paragraph (a)(2)(ii) states that APHIS will remove a region from this list only after it conducts an evaluation of the region and finds that HPAI is not likely to be present in its commercial bird or poultry populations.

In 9 CFR part 92, § 92.2 contains requirements for requesting the recognition of the animal health status of a region (as well as for the approval of the export of a particular type of animal or animal product to the United States from a foreign region). If, after review and evaluation of the information submitted in support of the request, APHIS believes the request can be safely granted, APHIS will make its evaluation available for public comment through a document published in the **Federal Register**.

In accordance with that process, we published a notice<sup>1</sup> in the **Federal Register** on September 16, 2019 (84 FR 48580–48581, Docket No. APHIS–2019–0055) announcing the availability for review and comment of our evaluation of the HPAI and Newcastle disease status of Romania. Based on this evaluation, APHIS concluded that Romania meets the requirements to form part of the European Union Poultry Trade Region (EUPTR), a region of the European Union recognized by APHIS that meets APHIS requirements for being considered low risk of HPAI and Newcastle disease, and for which the importation of live birds and poultry and poultry meat and products is harmonized.

We solicited comments on the notice for 60 days ending November 15, 2019. We received no comments by that date.

#### Newcastle Disease Detection

On November 29, 2019, Romania's National Sanitary Veterinary Authority confirmed Newcastle disease in one commercial farm with laying hens located in the Nicolae Bălcescu locality,

Călărași County, after an absence of more than 2 years. The affected flock experienced a total mortality of 3,815 birds, and the remaining birds were culled for a total of 6,871 birds. The National Sanitary Veterinary Authority, through the local competent authority, placed restrictions to eradicate the disease and to prevent commodities that could harbor the disease from being exported, in conformity with European Community (EC) regulations regarding the Community measures for the control of Newcastle disease. These measures included a control zone with a radius of at least 3 kilometers (km), and a surveillance zone with a radius of at least 10 km around the affected farm.

Tracing, additional testing, preliminary cleaning, and disinfestation measures were completed on December 5, 2019. Other measures, including disinfection of bedding material and treatment of surfaces, were carried out between December 6 and December 20, 2019. A final disinfection was completed on December 27, 2019. Sentinel birds were used to confirm the eradication of the disease. The event was closed on March 2, 2020.

The epidemiological investigation concluded that the occurrence of the disease was due to a combination between breaches in the farm biosecurity that allowed contact with wild birds and failure to comply with the vaccination protocol. No other sick or dead poultry were found in either the surveillance zone or the protection zone. The movement of live poultry and poultry products from Călărași County was prohibited during the entire period of the event.

#### H5N1 HPAI Detection

On January 14, 2020, Romania's National Sanitary Veterinary Authority confirmed H5N8 avian influenza on a farm in Seini, Maramur County, the first such outbreak in nearly 3 years. The affected flock experienced increased mortality of a total of 11,190 birds out of a flock of 18,699; the remaining 7,509 birds were culled. Romania immediately implemented strict movement restrictions in this area according to EC regulations on protective measures in relation to HPAI. These measures included a control zone with a radius of at least 3 km and a surveillance zone with a radius of at least 10 km around the affected farm.

<sup>1</sup> To view the notice, risk evaluation, environmental assessment, and finding of no significant impact, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2019-0055>.

A second outbreak was confirmed on January 17, 2020, on a farm with 22,762 laying hens located approximately 300 meters from the first outbreak. The affected flock experienced a mortality of 220 birds, and the remaining 22,542 were culled. Strict movement restrictions were implemented, including a control zone with a radius of at least 3 km and a surveillance zone with a radius of at least 10 km around the affected farm. The epidemiological investigation concluded that a vehicle used at both farms was likely the cause of spread. The sequence analysis of isolates showed close relationship to viruses detected in wild birds in Russia in 2018.

No further outbreaks had been detected, and the cleaning, disinfection and treatment of affected premises and of materials and equipment were ongoing in accordance with the procedures established by EC regulations. Commodities from restriction zones (protection and surveillance zones) due to HPAI or Newcastle disease were not allowed to exit zones until the restrictions were lifted. Officials certifying commodities from areas outside of the restriction zones must follow the certification procedures enforced by Romania under national legislation and by the EU under EC regulations.

As we stated in the initial notice, HPAI and Newcastle disease are known to exist in wild populations in Romania. This can lead to periodic events such as those detailed above. However, the scope of the disease events and Romania's response are consistent with our evaluation and do not undermine our conclusion that Romania can be added to the EUPTR. Moreover, because APHIS has determined that the affected birds have been depopulated, we have no reason to believe that HPAI or Newcastle disease currently exists in commercial bird or poultry populations within Romania.

We are therefore adding Romania to the list of countries in which Newcastle disease is not considered to exist, removing Romania from the list of countries in which HPAI is considered to exist, and adding Romania to the EUPTR.

**Authority:** 7 U.S.C. 1633, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 20th day of August 2020.

**Michael Watson,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2020–18690 Filed 8–25–20; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### **Caribou Targhee National Forest; Teton County; Wyoming; Grand Targhee Resort Master Development Plan Projects EIS**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** Grand Targhee Resort (GTR) has submitted a proposal to the Caribou-Targhee National Forest (CTNF) to pursue approval of select projects from its 2018 Master Development Plan (MDP). The CTNF is considering this proposal and is initiating the preparation of an environmental impact statement (EIS) to analyze and disclose the potential environmental effects of implementing the projects. The proposed action includes: Two areas to be incorporated into the existing special use permit (SUP) boundary with new terrain and lifts; lift replacements and realignments within the existing SUP boundary; additional terrain and on-mountain infrastructure improvements; and enhancement of non-winter and alternative activities.

**DATES:** Comments concerning the scope of the analysis must be received by September 25, 2020.

The draft EIS is expected to be available for public review in March 2021, and the final EIS is expected October 2021.

**ADDRESSES:** Send written comments to: Mel Bolling, Forest Supervisor, c/o Jay Pence, Teton Basin District Ranger, Caribou-Targhee National Forest, 1405 Hollipark Drive, Idaho Falls, ID 83401; or by email at [jay.pence@usda.gov](mailto:jay.pence@usda.gov) (please include “Grand Targhee Master Development Plan Projects” in the subject line).

#### **FOR FURTHER INFORMATION CONTACT:**

Additional information related to the proposed project can be obtained from: Jay Pence, Teton Basin District Ranger, Caribou-Targhee National Forest. Mr. Pence can be reached by phone at 208–354–6610 or by email at [jay.pence@usda.gov](mailto:jay.pence@usda.gov).

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information

Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

#### **SUPPLEMENTARY INFORMATION:**

##### **Purpose and Need for Action**

The Forest Service is responding to an application submitted under the National Forest Ski Area Permit Act of 1986 and Ski Area Recreational Opportunity Enhancement Act of 2011 (SAROE) by GTR to implement projects from their accepted MDP. In the MDP, GTR identified a need to improve the recreational experience and address shortcomings in their terrain offerings and operations in order to remain viable in the competitive destination skier/rider market.

To address the growth in the Idaho and Wyoming skier markets and to provide quality guest experiences for all skier levels, GTR will need to continue to develop and improve its terrain and guest services offerings in direct response to evolving consumer demands and the competitive regional and destination skier markets.

The CTNF, through consideration and acceptance of GTR's MDP, has identified a need to:

- Provide additional undeveloped, minimally maintained lift-served terrain and additional traditionally cleared alpine trails to enhance terrain variety and advanced skiing experiences at GTR;
- Provide an appropriate learning progression in an uncongested beginner area and increase the quantity of beginner, intermediate, and advanced-intermediate skiing terrain to enhance the skiing experience for beginner and intermediate skiers;
- Improve the efficiency of the lift and trail network and skier circulation across the mountain by providing more reliable and consistent snowmaking coverage in key areas;
- Update and improve facilities and guest services in the base area and on the mountain to meet the changing expectations of the local, regional, and destination skier markets; and
- Expand alternative snow-based and non-winter activities to provide a variety of year-round recreational options to guests and to more effectively utilize existing infrastructure during non-winter months.

##### **Proposed Action**

The proposed action includes the following nine elements:

- SUP boundary adjustments to incorporate the South Bowl and Mono Trees areas into GTR's SUP Area. Combined, these areas total



approximately 1,200 acres, and would provide approximately 180 acres (South Bowl) and 97 acres (Mono Trees) of traditional terrain development and lift construction in these areas;

- Construction of two new aerial lifts, one surface lift, two new beginner carpet lifts, the replacement of the Shoshone Lift, and the realignment of the Papoose carpet;

- Terrain enhancements including trail widening, extensions, grading, and new traditional and gladed terrain development that would result in approximately 118 acres of traditional terrain and 550 acres of gladed terrain;

- Implementation of a Mountain Road Rehabilitation Program to improve existing roads, remove unnecessary roads, and construct new roads;

- Installation of new snowmaking infrastructure to provide an additional 57 acres of snowmaking coverage;

- Construction of two full-service on-mountain guest service facilities (one at the summit of Fred's Mountain and one at the top terminal of the Sacajawea Lift), a guest yurt at the top of the Shoshone Lift, two on-mountain warming cabins (one in Rick's Basin and the other at the top of Lightning Ridge), and a basic warming hut within the proposed South Bowl SUP area;

- Installation of a permanent snow tubing facility and expansion of the existing Nordic skiing, snowshoeing, and winter (fat) biking offerings;

- Development of six (6) miles of downhill biking trails, two (2) miles of hiking trails, and 21 miles of multi-use trails. Development of a summer activity hub around the Shoshone Lift, including a canopy tour and zip line, aerial adventure course, and disc golf course; and

- Amendment of the 1997 *Revised Forest Plan for the Targhee National Forest* (forest plan) in the areas of the proposed SUP boundary adjustments from management prescription 2.1.2: *Visual Quality Maintenance* to management prescription 4.2 *Special Use Permit Recreation Sites*. If necessary, other forest plan amendments will be identified and disclosed in the forthcoming EIS.

A full description of each element can be found at: <https://grandtargheeresorteis.org/>.

#### Responsible Official

The responsible official is Mel Bolling, Forest Supervisor for the CTNF.

#### Nature of Decision To Be Made

Given the purpose and need, the responsible official will review the proposed action, the other alternatives,

and the environmental consequences in order to decide the following:

- Whether to approve, approve with modifications, or deny the application for the adjustment of GTR's SUP boundary, the associated projects within the proposed SUP boundary adjustments, and the projects within GTR's existing SUP boundary;

- Whether to prescribe conditions needed for the protection of the environment on National Forest System lands; and

- Whether or not to approve a Forest-wide forest plan amendment changing the management area boundaries for the SUP adjustment, as well as any other forest plan amendments necessary identified in the EIS.

#### Permits or Licenses Required

Amendment to the Forest Service SUP.

#### Scoping Process

This notice of intent initiates the scoping process, which guides the development of the EIS. The Forest Service is soliciting comments from Federal, State and local agencies and other individuals or organizations that may be interested in or affected by implementation of the proposed projects. During the public scoping comment period a virtual public open house will be held. Information on the virtual public open house will be distributed through the project website (<https://grandtargheeresorteis.org/>) and other channels of communication. During the virtual public conference, representatives from the CTNF and GTR will be available to answer questions and provide additional information on this project.

To be most helpful, comments should be specific to the project area and should identify resources or effects that should be considered by the Forest Service. Submitting timely, specific written comments during this scoping period or any other official comment period establishes standing for filing objections under 36 CFR 218 Parts A and B. Additional information and maps of this proposal can be found at: <https://grandtargheeresorteis.org/>.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the EIS. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will

be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered as well; however, those who participate in the comment process anonymously will not have standing to object.

**Allen Rowley,**

*Associate Deputy Chief, National Forest System.*

[FR Doc. 2020-18689 Filed 8-25-20; 8:45 am]

**BILLING CODE 3411-15-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-122-868, C-560-834, C-552-826]

#### Utility Scale Wind Towers From Canada, Indonesia, and the Socialist Republic of Vietnam: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Orders

**AGENCY:** Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce.

**SUMMARY:** Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing countervailing duty orders on utility scale wind towers (wind towers) from Canada, Indonesia, and the Socialist Republic of Vietnam (Vietnam). In addition, Commerce is amending its final determination with respect to wind towers from Canada to correct ministerial errors.

**DATES:** Applicable August 26, 2020.

#### FOR FURTHER INFORMATION CONTACT:

Moses Song at (202) 482-7885 or Tyler Weinhold at (202) 482-1121 (Canada); Alex Wood at (202) 482-1959 (Indonesia); and Davina Friedmann at (202) 482-0698 (Vietnam); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Background

In accordance with sections 705(a), 705(d), and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on July 6, 2020, Commerce published its affirmative final determinations that countervailable subsidies are being provided to producers and exporters of wind towers

from Canada, Indonesia, and Vietnam.<sup>1</sup> In the investigations of wind towers from Canada and Indonesia, an interested party to each investigation submitted a timely filed allegation on the respective records that Commerce made certain ministerial errors in the final countervailing duty determinations on wind towers from Canada and Indonesia. Section 705(e) of the Act and 19 CFR 351.224(f) define ministerial errors as errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which Commerce considers ministerial. We reviewed the allegations and determined that we made certain ministerial errors in the final countervailing duty determination on wind towers from Canada, and further determined that we did not make ministerial errors in the final countervailing duty determination on wind towers from Indonesia. See “Amendment to the Final Determination” section below for further discussion.

On August 19, 2020, the ITC notified Commerce of its affirmative final determination that pursuant to sections 705(b)(1)(A)(i) and 705(d) of the Act, that an industry in the United States is materially injured by reason of subsidized imports of subject merchandise from Canada, Indonesia, and Vietnam.<sup>2</sup>

### Scope of the Orders

The merchandise covered by these orders is wind towers from Canada, Indonesia, and Vietnam. For a complete description of the scope of these orders, see the appendix to this notice.

### Amendment to the Final Determination

On July 6, 2020, Marmen Inc., Marmen Énergie Inc., and cross-owned affiliate Gestion Marmen (collectively, Marmen) timely alleged that the *Canada Final Determination* contained certain ministerial errors and requested that

Commerce correct such errors.<sup>3</sup> On July 15, 2020, the petitioner filed rebuttal comments.<sup>4</sup>

Commerce reviewed the record and on August 5, 2020, agreed that a certain error referenced in Marmen’s allegation constituted a ministerial error within the meaning of section 705(e) of the Act and 19 CFR 351.224(f).<sup>5</sup> Commerce found that another error alleged in Marmen’s submission did not constitute a ministerial error. Commerce found that it made an error in calculating Marmen’s sales denominator used in the *Canada Final Determination* by inadvertently excluding Marmen’s sales to Marmen Energy Co. (i.e., an affiliate of Marmen).<sup>6</sup> Pursuant to 19 CFR 351.224(e), Commerce is amending the *Canada Final Determination* to reflect the correction of the ministerial error described above. Based on this correction, the subsidy rate for Marmen decreased from 1.18 percent *ad valorem* to 1.13 percent *ad valorem*.<sup>7</sup> Because we based the all-others rate on Marmen’s *ad valorem* subsidy rate,<sup>8</sup> the correction described above also applies to the all-others rate. As a result, the all-others rate determined in the *Canada Final Determination* also decreased from 1.18 percent *ad valorem* to 1.13 percent *ad valorem*.<sup>9</sup>

On July 7, 2020, PT Kenertec Power System (Kenertec) timely alleged that the *Indonesia Final Determination* contained certain ministerial errors and requested that Commerce correct such errors.<sup>10</sup> On July 13, 2020, the petitioner filed rebuttal comments.<sup>11</sup> Commerce reviewed the record and on August 7, 2020, determined that Kenertec’s allegations did not constitute ministerial errors within the meaning of section 705(e) of the Act and 19 CFR

351.224(f).<sup>12</sup> Accordingly, Commerce is not amending the *Indonesia Final Determination* to reflect the alleged ministerial error.

### Countervailing Duty Orders

On August 19, 2020, in accordance with sections 705(b)(1)(A)(i) and 705(d) of the Act, the ITC notified Commerce of its final determination in these investigations, in which it found that an industry in the United States is materially injured by reason of subsidized imports of wind towers from Canada, Indonesia, and Vietnam.<sup>13</sup> Therefore, in accordance with section 705(c)(2) of the Act, Commerce is issuing these countervailing duty orders. Because the ITC determined that imports of wind towers from Canada, Indonesia, and Vietnam are materially injuring a U.S. industry, unliquidated entries of such merchandise from Canada, Indonesia, and Vietnam, entered or withdrawn from warehouse for consumption, are subject to the assessment of countervailing duties.

Therefore, in accordance with section 706(a) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, countervailing duties for all relevant entries of wind towers from Canada, Indonesia, and Vietnam, which are entered, or withdrawn from warehouse, for consumption on or after December 13, 2019, the date of publication of the *Preliminary Determinations*,<sup>14</sup> but will not include entries occurring after the expiration of the provisional measures period and before the publication of the ITC’s final injury determination under section 705(b) of the Act, as further described below.

<sup>3</sup> See Marmen’s Letter, “Utility Scale Wind Towers from Canada: Ministerial Error Comments,” dated July 6, 2020.

<sup>4</sup> The petitioner to these investigations is the Wind Tower Trade Coalition, whose individual members are Arcosa Wind Towers Inc. and Broadwind Towers, Inc. See Petitioner’s Letter, “Utility Scale Wind Towers from Canada: Response to Marmen’s Ministerial Error Allegation,” dated July 15, 2020.

<sup>5</sup> See Memorandum, “Countervailing Duty Investigation on Utility-Scale Wind Towers from Canada—Allegation of Ministerial Errors in the Final Determination,” dated August 5, 2020 (Ministerial Error Memorandum) at 2–5.

<sup>6</sup> *Id.* at 5–7.

<sup>7</sup> *Id.* at 5.

<sup>8</sup> See *Canada Final Determination*, 85 FR at 40246.

<sup>9</sup> See Ministerial Error Memorandum.

<sup>10</sup> See Kenertec’s Letter, “Utility Scale Wind Towers from Indonesia: Ministerial Error Allegation,” dated July 7, 2020.

<sup>11</sup> See Petitioner’s Letter, “Utility Scale Wind Towers from Indonesia: Response to Kenertec’s Ministerial Error Comments,” dated July 13, 2020.

<sup>12</sup> See Memorandum, “Countervailing Duty Investigation of Utility Scale Wind Towers from Indonesia: Allegations of Ministerial Errors in the Final Determination,” dated August 7, 2020 at 3–7.

<sup>13</sup> See ITC Notification Letter.

<sup>14</sup> See *Utility Scale Wind Towers from Canada: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 84 FR 68126 (December 13, 2019) (*Canada Preliminary Determination*); *Utility Scale Wind Towers from Indonesia: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 84 FR 68109 (December 13, 2019) (*Indonesia Preliminary Determination*); and *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 84 FR 68104 (December 13, 2019) (*Vietnam Preliminary Determination*) (collectively, *Preliminary Determinations*).

<sup>1</sup> See *Utility Scale Wind Towers from Canada: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances*, 85 FR 40245 (July 6, 2020) (*Canada Final Determination*); *Utility Scale Wind Towers from Indonesia: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 85 FR 40241 (July 6, 2020) (*Indonesia Final Determination*); and *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination and Negative Determination of Critical Circumstances*, 85 FR 40229 (July 6, 2020) (*Vietnam Final Determination*).

<sup>2</sup> See ITC’s Letter, “Notification of ITC Final Determinations,” dated August 19, 2020 (ITC Notification Letter).

**Critical Circumstances**

On July 30, 2020, the ITC found that critical circumstances do not exist with respect to imports of subject merchandise from Indonesia.<sup>15</sup> In light of the ITC's negative critical circumstances determination on imports of wind towers from Indonesia, we will instruct CBP to lift suspension and to refund any cash deposits made to secure the payment of estimated countervailing duties with respect to entries of wind towers from Indonesia, entered or withdrawn from warehouse, for consumption on or after September 14, 2019 (*i.e.*, 90 days prior to the date of publication of the *Indonesia Preliminary Determination*), but before December 13, 2019 (*i.e.*, the date of the publication of the *Indonesia Preliminary Determination*).

**Suspension of Liquidation and Cash Deposits**

In accordance with section 706 of the Act, Commerce will instruct CBP to reinstitute the suspension of liquidation of wind towers from Canada, Indonesia, and Vietnam, as described in the appendix to this notice, effective on the date of publication of the ITC's notice of final determination in the **Federal Register**, and to assess, upon further instruction by Commerce, pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates below for the subject merchandise. On or after the date of publication of the ITC's final injury determination in the **Federal Register**, CBP must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the rates noted below. The all-others rate applies to all producers or exporters not specifically listed below.

**CANADA**

Company	Subsidy rate (percent)
Marmen Inc., Marmen Énergie Inc., and Gestion Marmen Inc. <sup>16</sup>	1.13
All Others .....	1.13

<sup>15</sup> See the ITC's News Release 20-078 ([https://www.usitc.gov/press\\_room/news\\_release/2020/er0730ll1614.htm](https://www.usitc.gov/press_room/news_release/2020/er0730ll1614.htm)).

**INDONESIA**

Company	Subsidy rate (percent)
PT Kenertec Power System <sup>17</sup> .....	5.90
All Others .....	5.90

**VIETNAM**

Company	Subsidy rate (percent)
CS Wind Vietnam Co., Ltd. (a.k.a. CS Wind Tower Co., Ltd.) <sup>18</sup> .....	2.84
All Others .....	2.84

**Provisional Measures**

Section 703(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months. In the underlying investigations, Commerce published the *Preliminary Determinations* on December 13, 2019. As such, the four-month period beginning on the date of the publication of the *Preliminary Determinations* ended on April 10, 2020. Furthermore, section 707(b) of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination.

Therefore, in accordance with section 703(d) of the Act, we instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to countervailing duties, unliquidated entries of wind towers from Canada, Indonesia, and Vietnam, entered, or withdrawn from warehouse, for consumption, on or after April 11, 2020, the date on which the provisional measures expired, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation will resume on the date of publication of the ITC's final determination in the **Federal Register**.

**Notification to Interested Parties**

This notice constitutes the CVD orders with respect to wind towers from Canada, Indonesia, and Vietnam, pursuant to section 706(a) of the Act. Interested parties can find a list of CVD orders currently in effect at <http://enforcement.trade.gov/stats/iastats1.html>.

<sup>16</sup> See *Canada Final Determination*, 85 FR at 40246; see also Ministerial Error Memorandum at 5.

<sup>17</sup> See *Indonesia Final Determination*, 85 FR at 40242.

<sup>18</sup> See *Vietnam Final Determination*, 85 FR at 40230.

These orders are issued and published in accordance with section 706(a) of the Act and 19 CFR 351.211(b).

Dated: August 20, 2020.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

**Appendix****Scope of the Orders**

The merchandise covered by these orders consists of certain wind towers, whether or not tapered, and sections thereof. Certain wind towers support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.*, where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.*, flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with nonsubject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof, unless those components are shipped with the tower sections.

Merchandise covered by these orders is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7308.20.0020 or 8502.31.0000. Wind towers of iron or steel are classified under HTSUS 7308.20.0020 when imported separately as a tower or tower section(s). Wind towers may be classified under HTSUS 8502.31.0000 when imported as combination goods with a wind turbine (*i.e.*, accompanying nacelles and/or rotor blades). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

[FR Doc. 2020-18793 Filed 8-25-20; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A–122–867, A–560–833, A–580–902, A–552–825]

**Utility Scale Wind Towers From Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam: Antidumping Duty Orders**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing antidumping duty (AD) orders on utility scale wind towers (wind towers) from Canada, Indonesia, the Republic of Korea (Korea), and the Socialist Republic of Vietnam (Vietnam).

**DATES:** Applicable August 26, 2020.

**FOR FURTHER INFORMATION CONTACT:**

Michael J. Heaney at (202) 482–4475 (Canada); Benjamin Luberdia at (202) 482–2185 or Brittany Bauer at (202) 482–3860 (Indonesia); Adam Simons at (202) 482–6172 or David Goldberger at (202) 482–4136 (Korea); Joshua A. DeMoss at (202) 482–3362 (Vietnam); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:****Background**

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on July 6, 2020, Commerce published its affirmative final determinations in the less-than-fair-value (LTFV) investigations of wind towers from Canada, Indonesia, Korea, and Vietnam.<sup>1</sup> On August 19, 2020, the ITC notified Commerce of its final affirmative determinations that an

industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act, by reason of the LTFV imports of wind towers from Canada, Indonesia, Korea, and Vietnam, and its determinations that critical circumstances do not exist with respect to imports of subject merchandise from Korea and Vietnam that are subject to Commerce's affirmative critical circumstances findings.<sup>2</sup>

**Scope of the Orders**

The merchandise covered by these orders is wind towers from Canada, Indonesia, Korea, and Vietnam. For a complete description of the scope of the orders, see Appendices I and II to this notice.<sup>3</sup>

**Antidumping Duty Orders**

On August 19, 2020, in accordance with sections 735(b)(1)(A)(i) and 735(d) of the Act, the ITC notified Commerce of its *Final Determinations* that an industry in the United States is materially injured by reason of imports of wind towers from Canada, Indonesia, Korea, and Vietnam and its determination that critical circumstances do not exist with respect to imports of subject merchandise from Korea and Vietnam that are subject to Commerce's affirmative critical circumstances finding.<sup>4</sup> Therefore, Commerce is issuing these AD orders in accordance with sections 735(c)(2) and 736 of the Act. Because the ITC determined that imports of wind towers from Canada, Indonesia, Korea, and Vietnam are materially injuring a U.S. industry, unliquidated entries of such merchandise from Canada, Indonesia, Korea, and Vietnam, which are entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

As a result of the ITC's final affirmative determinations, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise, for all relevant entries of wind towers from Canada, Indonesia, Korea, and Vietnam. For entries of wind

towers from Canada, Indonesia, or Vietnam, the cash deposits for estimated antidumping duties will be adjusted for export subsidies found in the final determinations of the companion countervailing duty investigations.<sup>5</sup> Antidumping duties will be assessed on unliquidated entries of wind towers from Canada, Indonesia, Korea, and Vietnam entered, or withdrawn from warehouse, for consumption on or after February 14, 2020, the date of publication of these *Preliminary Determinations*,<sup>6</sup> but will not include entries occurring after the expiration of the provisional measures period and before publication in the **Federal Register** of the ITC's injury determination, as further described below.

**Critical Circumstances**

With regard to the ITC's negative critical circumstances determination on imports of wind towers from Korea and Vietnam, we will instruct CBP to lift suspension and to refund any cash deposits made to secure the payment of estimated antidumping duties with respect to entries of wind towers from Korea and Vietnam, entered or withdrawn from warehouse, for consumption on or after November 16, 2019 (*i.e.*, 90 days prior to the date of the publication of the preliminary determinations), but before February 14, 2020 (*i.e.*, the date of publication of the preliminary determinations for these investigations).

**Continuation of Suspension of Liquidation**

In accordance with section 736 of the Act, Commerce will instruct CBP to continue to suspend liquidation on all relevant entries of wind towers from Canada, Indonesia, Korea, and Vietnam as described in the Appendix to this

<sup>5</sup> See *Final Determinations*.

<sup>6</sup> See *Utility Scale Wind Towers from Canada: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures*, 85 FR 8562 (February 14, 2020); *Utility Scale Wind Towers from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances*, 85 FR 8560 (February 14, 2020); *Utility Scale Wind Towers from Indonesia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures*, 85 FR 8558 (February 14, 2020); and *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less-Than-Fair-Value and Preliminary Affirmative Determination of Critical Circumstances*, 85 FR 8565 (February 14, 2020) (collectively, *Preliminary Determinations*).

<sup>1</sup> See *Utility Scale Wind Towers from Canada: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 85 FR 40239 (July 6, 2020); *Utility Scale Wind Towers from Indonesia: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 85 FR 40231 (July 6, 2020); *Utility Scale Wind Towers from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 85 FR 40243 (July 6, 2020); and *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 85 FR 40226 (July 6, 2020) (collectively, *Final Determinations*).

<sup>2</sup> See ITC's Letter, "Notification of ITC Final Determinations," dated August 19, 2020 (ITC Notification Letter).

<sup>3</sup> Appendix I contains the scope language for the Canada, Indonesia, and Korea AD orders. Appendix II contains the scope language for the Vietnam AD order.

<sup>4</sup> See ITC Notification Letter.

notice which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the ITC's notice of final determination in the **Federal Register**. These instructions suspending liquidation will remain in effect until further notice.

We will also instruct CBP to require cash deposits equal to the amount as indicated below. Accordingly, effective

on the date of publication in the **Federal Register** of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on this subject merchandise, a cash deposit equal to the cash deposit for estimated antidumping duties based on the *ad valorem* cash deposit rates listed

below.<sup>7</sup> The relevant all-others rates apply to all producers or exporters not specifically listed, as appropriate.

#### Estimated Weighted-Average Dumping Margins

The estimated weighted-average dumping margins for each AD order are as follows:

Exporter or producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset(s)) (percent)
Canada		
Marmen Inc./Marmen Énergie Inc .....	4.94	4.94
All Others .....	4.94	4.94
Indonesia		
PT Kenertec Power System .....	8.53	8.50
All Others .....	8.53	8.50
Korea		
Exporter or producer	Estimated weighted-average dumping margin (percent)	
Dongkuk S&C Co., Ltd .....	5.41	
All Others .....	5.41	
Vietnam		
CS Wind Vietnam Co., Ltd. a/k/a CS Wind Tower Co., Ltd. and CS Wind Corporation (collectively, the CS Wind Group) .....	65.96	63.80

#### Provisional Measures

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except that Commerce may extend the four-month period to no more than six months at the request of exporters representing a significant proportion of exports of the subject merchandise. At the request of exporters that account for a significant proportion of exports of wind towers from Canada, Indonesia, Korea, and Vietnam, we extended the four-month period to six months in the *Preliminary Determinations* published on February 14, 2020. Therefore, the extended period, beginning on the date of publication of the *Preliminary Determinations*, ended on August 12, 2020. Pursuant to section 737(b) of the Act, the collection of cash deposits at the rates listed above will begin on the date of publication of the ITC's final injury determination.

Therefore, in accordance with section 733(d) of the Act and our practice, we will instruct CBP to terminate the

suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of wind towers from Canada, Indonesia, Korea, and Vietnam entered, or withdrawn from warehouse, for consumption on or after August 13, 2020, the first day provisional measures were no longer in effect, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation will resume on the date of publication of the ITC's final determination in the **Federal Register**.

#### Notification to Interested Parties

This notice constitutes the AD orders with respect to wind towers from Canada, Indonesia, Korea, and Vietnam pursuant to section 736(a) of the Act. Interested parties can find a list of AD orders currently in effect at <http://enforcement.trade.gov/stats/iastats1.html>.

These orders are issued and published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: August 20, 2020.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

#### Appendix I

##### Scope of the Orders on Canada, Indonesia, and Korea

The merchandise covered by these orders consists of certain wind towers, whether or not tapered, and sections thereof. Certain wind towers support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.*, where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.*, flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several

<sup>7</sup> See section 736(a)(3) of the Act.

wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with nonsubject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof, unless those components are shipped with the tower sections.

Merchandise covered by these orders is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7308.20.0020 or 8502.31.0000. Wind towers of iron or steel are classified under HTSUS 7308.20.0020 when imported separately as a tower or tower section(s). Wind towers may be classified under HTSUS 8502.31.0000 when imported as combination goods with a wind turbine (*i.e.*, accompanying nacelles and/or rotor blades). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

## Appendix II

### Scope of the Order on Vietnam

The merchandise covered by this order consists of certain wind towers, whether or not tapered, and sections thereof. Certain wind towers support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.*, where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.*, flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with nonsubject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof, unless those components are shipped with the tower sections.

Further, excluded from the scope are any products covered by the existing antidumping duty order on utility scale wind towers from the Socialist Republic of Vietnam. *See Utility Scale Wind Towers from the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 78 FR 11150 (February 15, 2013).

Merchandise covered by these orders is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7308.20.0020 or 8502.31.0000. Wind towers of iron or steel are classified under HTSUS 7308.20.0020 when imported separately as a tower or tower section(s). Wind towers may be classified under HTSUS 8502.31.0000 when imported as combination goods with a wind turbine (*i.e.*, accompanying nacelles and/or rotor blades). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

[FR Doc. 2020–18792 Filed 8–25–20; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–570–126]

### Non-Refillable Steel Cylinders From the People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**DATES:** Applicable August 26, 2020.

**FOR FURTHER INFORMATION CONTACT:** Darla Brown at (202) 482–1791 or Katherine Sliney at (202) 482–2437, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

### SUPPLEMENTARY INFORMATION:

#### Background

On April 16, 2020, the Department of Commerce (Commerce) initiated a less-than-fair-value (LTFV) investigation of imports of non-refillable steel cylinders from the People's Republic of China (China).<sup>1</sup> Currently, the preliminary determination is due no later than September 3, 2020.

### Postponement of Preliminary Determination

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires

Commerce to issue the preliminary determination in an LTFV investigation within 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) The petitioner makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On August 7, 2020, the petitioner, Worthington Industries, submitted a timely request that Commerce postpone the preliminary determination in this LTFV investigation.<sup>2</sup> The petitioner stated that a postponement is necessary to provide Commerce with adequate time to solicit additional information from the respondents to clarify their responses, to issue supplemental questionnaires and review respondents' supplemental questionnaire responses, and to allow parties to gather information on valuing factors of production.<sup>3</sup>

For the reasons stated above and because there are no compelling reasons to deny the request, Commerce, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determination by 50 days (*i.e.*, 190 days after the date on which this investigation was initiated). As a result, Commerce will issue its preliminary determination no later than October 23, 2020.<sup>4</sup> In accordance with

<sup>2</sup> See Petitioner's Letter, "Non-Refillable Steel Cylinders from China—Petitioners' Request for Postponement of Preliminary Antidumping Determination," dated August 7, 2020.

<sup>3</sup> *Id.*

<sup>4</sup> Sanjiang Kay Yuan Co. Ltd (SKY) contends that Commerce "has consistently used the date of publication of notices in the **Federal Register**" to set the deadline for its preliminary determinations and postponed preliminary determinations, under 19 CFR 351.205(b)(1) and (b)(2). *See* SKY's Letter, "Certain Non-Refillable Steel Cylinders from China: A–570–126; Comment on Request to Extend Preliminary Determination," dated August 7, 2020. However, Commerce determines that October 23, 2020 is the appropriate deadline for the postponed preliminary determination, which is based on the signature date of the initiation of the investigation. *See, e.g., Certain Vertical Shaft Engines Between 99cc and Up to 225cc, and Parts Thereof from the*

<sup>1</sup> *See Certain Non-Refillable Steel Cylinders from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 85 FR 22402 (April 22, 2020).

section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination, unless postponed at a later date.

#### Notification to Interested Parties

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: August 14, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–18794 Filed 8–25–20; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C–570–136]

#### Certain Chassis and Subassemblies Thereof From the People's Republic of China: Initiation of Countervailing Duty Investigation

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**DATES:** Applicable August 19, 2020.

#### FOR FURTHER INFORMATION CONTACT:

William Langley, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3681.

#### SUPPLEMENTARY INFORMATION:

##### The Petition

On July 30, 2020, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of certain chassis and subassemblies thereof (chassis) from the People's Republic of China (China) filed in proper form on behalf of the Coalition of American Chassis Manufacturers (the petitioner), the members of which are domestic producers of chassis.<sup>1</sup> The Petition was

*People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation*, 85 FR 47357 (August 5, 2020); see also *Certain Corrosion Inhibitors from the People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation*, 85 FR 36376 (June 16, 2020).

<sup>1</sup> The members of the Coalition of American Chassis Manufacturers are: Cheetah Chassis Corporation; Hercules Enterprises, LLC; Pitts Enterprises, Inc.; Pratt Industries, Inc.; and Stoughton Trailers, LLC. See Petitioner's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Petitions for the Imposition of Antidumping and Countervailing Duties," dated July 30, 2020 (the Petition) at Volume I, Exhibit I–1.

accompanied by an antidumping duty (AD) petition concerning imports of chassis from China.<sup>2</sup>

Between August 3 and 11, 2020, Commerce requested supplemental information pertaining to certain aspects of the Petition in separate supplemental questionnaires and a phone call with the petitioner,<sup>3</sup> to which the petitioner filed responses between August 7 and 14, 2020.<sup>4</sup>

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of China (GOC) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of chassis in China and that such imports are materially injuring, or threatening material injury to, the domestic industry producing chassis in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition is supported by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petition on behalf of the

<sup>2</sup> *Id.*

<sup>3</sup> See Commerce's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Chassis and Subassemblies Thereof from the People's Republic of China: Supplemental Questions," dated August 3, 2020 (General Issues Supplemental); see also Commerce's Letter, "Petition for the Imposition of Countervailing Duties on Imports of Certain Chassis and Subassemblies Thereof from the People's Republic of China: Supplemental Questions," dated August 3, 2020; Commerce's Letter, "Petition for the Imposition of Countervailing Duties on Imports of Certain Chassis and Subassemblies Thereof from the People's Republic of China: Additional Supplemental Questions," dated August 4, 2020; Memorandum, "Phone Call with Counsel to the Petitioner," dated August 7, 2020; and Memorandum, "Phone Call with Counsel to the Petitioner," dated August 11, 2020.

<sup>4</sup> See Petitioner's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Response to Supplemental Questions on General Issues Volume I of the Petition," dated August 7, 2020 (General Issues Supplemental Response); see also Petitioner's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Supplemental Responses and Additional Supplemental Responses to Volume III of the Petition," dated August 7, 2020; Petitioner's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Errata to Response to Supplemental Questions on General Issues Volume I of the Petition," dated August 7, 2020 (Scope Errata); Petitioner's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Response to Second Supplemental Questions (Question 2) on General Issues Volume I of the Petition," dated August 13, 2020; and Petitioner's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Response to Second Supplemental Questions (Question 1) on General Issues Volume I of the Petition," dated August 14, 2020.

domestic industry because the petitioner is an interested party as defined in section 771(9)(E) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested CVD investigation.<sup>5</sup>

#### Period of Investigation

Because the Petition was filed on July 30, 2020, the period of investigation (POI) is January 1, 2019 through December 31, 2019.<sup>6</sup>

#### Scope of the Investigation

The merchandise covered by this investigation is chassis from China. For a full description of the scope of this investigation, see the appendix to this notice.

#### Comments on Scope of the Investigation

On August 3, 2020, Commerce requested further information from the petitioner regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.<sup>7</sup> On August 7, 2020, the petitioner revised the scope.<sup>8</sup> The description of the merchandise covered by this investigation, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).<sup>9</sup> Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,<sup>10</sup> all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on September 8, 2020, which is 20 calendar days from the signature date of this notice.<sup>11</sup> Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on September 18, 2020, which is ten calendar days from the initial comment deadline.

<sup>5</sup> See "Determination of Industry Support for the Petition" section, *infra*.

<sup>6</sup> See 19 CFR 351.204(b)(2).

<sup>7</sup> See General Issues Supplemental at 3.

<sup>8</sup> See General Issues Supplemental Response; see also Scope Errata.

<sup>9</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>10</sup> See 19 CFR 351.102(b)(21) (defining "factual information").

<sup>11</sup> See 19 CFR 351.303(b).



Commerce requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such comments must also be filed on the record of the concurrent AD investigation.

### Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.<sup>12</sup> An electronically filed document must be received successfully in its entirety by the time and date it is due.

### Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOC of the receipt of the Petition and provided it the opportunity for consultations with respect to the CVD Petition.<sup>13</sup> The GOC did not request consultations.

### Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total

production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,<sup>14</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>15</sup>

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.<sup>16</sup> Based on our analysis of the information submitted on the record, we have determined that chassis, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.<sup>17</sup>

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the "Scope of the Investigation," in the appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2019 and compared this to the estimated total production of the domestic like product for the entire domestic industry.<sup>18</sup> We have relied on the data provided by the petitioner for purposes of measuring industry support.<sup>19</sup>

Our review of the data provided in the Petition, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.<sup>20</sup> First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (e.g., polling).<sup>21</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.<sup>22</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to,

Investigation Initiation Checklist: Certain Chassis and Subassemblies Thereof from the People's Republic of China (China CVD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Chassis and Subassemblies Thereof from the People's Republic of China (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS.

<sup>18</sup> See Volume I of the Petition at 2–3 and Exhibits I–3 and I–17; see also General Issues Supplement at 9–10 and Exhibit I–Supp–3.

<sup>19</sup> See Volume I of the Petition at 2–3 and Exhibits I–3 and I–17; see also General Issues Supplement at 9–10 and Exhibit I–Supp–3. For further discussion, see Attachment II of the China CVD Initiation Checklist.

<sup>20</sup> See Attachment II of the China CVD Initiation Checklist.

<sup>21</sup> *Id.*; see also section 702(c)(4)(D) of the Act.

<sup>22</sup> See Attachment II of the China CVD Initiation Checklist.

<sup>12</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at [https://access.trade.gov/help/Handbook\\_on\\_Electronic\\_Filing\\_Procedures.pdf](https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf).

<sup>13</sup> See Commerce's Letter, "Countervailing Duty Petition on Certain Chassis and Subassemblies Thereof from the People's Republic of China: Invitation for Consultations to Discuss the Countervailing Duty Petition," dated July 30, 2020.

<sup>14</sup> See section 771(10) of the Act.

<sup>15</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F. 2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989)).

<sup>16</sup> See Volume I of the Petition at 16–18 and Exhibits I–7 and I–18; see also General Issues Supplement at 7–9 and Exhibits I–Supp–1 and I–Supp–2.

<sup>17</sup> For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, see Countervailing Duty

the Petition.<sup>23</sup> Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.<sup>24</sup>

### Injury Test

Because China is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from China materially injure, or threaten material injury to, a U.S. industry.

### Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>25</sup>

The petitioner contends that the industry’s injured condition is illustrated by a significant volume of subject imports; reduced market share; underselling and price depression and/or suppression; lost sales and revenues; declines in production, shipments, net sales, and capacity utilization; decline in employment; and declining financial performance.<sup>26</sup> We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.<sup>27</sup>

### Initiation of CVD Investigation

Based upon our examination of the Petition and supplemental responses, we find that the Petition meets the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of chassis from China benefit

from countervailable subsidies conferred by the GOC. Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on all of the 30 alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* China CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

### Respondent Selection

The petitioner named two companies in China as producers/exporters of chassis subject to the scope of this investigation.<sup>28</sup> Accordingly, and in the absence of any contradictory information, Commerce intends to examine all known producers/exporters of chassis from China.

### Distribution of Copies of the CVD Petition

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOC via ACCESS. Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

### ITC Notification

Commerce will notify the ITC of our initiation, as required by section 702(d) of the Act.

### Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of chassis from China are materially injuring, or threatening material injury to, a U.S. industry.<sup>29</sup> A negative ITC determination will result in the investigation being terminated.<sup>30</sup> Otherwise, this investigation will proceed according to statutory and regulatory time limits.

### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available

information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce’s regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>31</sup> and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.<sup>32</sup> Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301.<sup>33</sup> For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting extension requests or factual information in this investigation.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *See* Volume I of the Petition at 25–26 and Exhibit I–13.

<sup>26</sup> *See* Volume I of the Petition at 15–16, 19–39 and Exhibits I–3, I–13, I–15 through I–17 and I–20 through I–31; *see also* General Issues Supplement at 10 and Exhibit I–Supp–4.

<sup>27</sup> *See* China CVD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Chassis and Subassemblies Thereof from the People’s Republic of China.

<sup>28</sup> *See* Volume I of the Petition at Exhibit I–10.

<sup>29</sup> *See* section 703(a)(1) of the Act.

<sup>30</sup> *Id.*

<sup>31</sup> *See* 19 CFR 351.301(b).

<sup>32</sup> *See* 19 CFR 351.301(b)(2).

<sup>33</sup> *See* 19 CFR 351.302.

## Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>34</sup> Parties must use the certification formats provided in 19 CFR 351.303(g).<sup>35</sup> Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

## Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed at 19 CFR 351.103(d)). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>36</sup>

This notice is issued and published pursuant to sections 702(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: August 19, 2020.

**Jeffrey I. Kessler,**

*Assistant Secretary, for Enforcement and Compliance.*

## Appendix

### Scope of the Investigation

The merchandise covered by this investigation is chassis and subassemblies thereof, whether finished or unfinished, whether assembled or unassembled, whether coated or uncoated, regardless of the number of axles, for carriage of containers, or other payloads (including self-supporting payloads) for road, marine roll-on/roll-off (RORO) and/or rail transport. Chassis are typically, but are not limited to, rectangular framed trailers with a suspension and axle system, wheels and tires, brakes, a lighting and electrical system, a coupling for towing behind a truck tractor, and a locking system or systems to secure the shipping container or containers to the chassis using twistlocks, slide pins or similar attachment devices to

engage the corner fittings on the container or other payload.

Subject merchandise includes, but is not limited to, the following subassemblies:

- Chassis frames, or sections of chassis frames, including kingpins or kingpin assemblies, bolsters consisting of transverse beams with locking or support mechanisms, goosenecks, drop assemblies, extension mechanisms and/or rear impact guards;
- Running gear assemblies or axle assemblies for connection to the chassis frame, whether fixed in nature or capable of sliding fore and aft or lifting up and lowering down, which may or may not include suspension(s) (mechanical or pneumatic), wheel end components, slack adjusters, axles, brake chambers, locking pins, and tires and wheels;
- Landing gear (legs) or landing gear assemblies, for connection to the chassis frame, capable of supporting the chassis when it is not engaged to a tractor; and
- Assemblies and/or components that connect to the chassis frame or a section of the chassis frame, such as, but not limited to, pintle hooks or B-trains (which include a fifth wheel), which are capable of connecting a chassis to a converter dolly or another chassis.

Importation of any of these subassemblies, whether assembled or unassembled, constitutes an unfinished chassis for purposes of this investigation.

Subject merchandise also includes chassis, whether finished or unfinished, entered with or for further assembly with components such as, but not limited to: Hub and drum assemblies, brake assemblies (either drum or disc), axles, brake chambers, suspensions and suspension components, wheel end components, landing gear legs, spoke or disc wheels, tires, brake control systems, electrical harnesses and lighting systems.

Processing of finished and unfinished chassis and components such as trimming, cutting, grinding, notching, punching, drilling, painting, coating, staining, finishing, assembly, or any other processing either in the country of manufacture of the in-scope product or in a third country does not remove the product from the scope. Inclusion of other components not identified as comprising the finished or unfinished chassis does not remove the product from the scope.

This scope excludes dry van trailers, refrigerated van trailers and flatbed trailers. Dry van trailers are trailers with a wholly enclosed cargo space comprised of fixed sides, nose, floor and roof, with articulated panels (doors) across the rear and occasionally at selected places on the sides, with the cargo space being permanently incorporated in the trailer itself. Refrigerated van trailers are trailers with a wholly enclosed cargo space comprised of fixed sides, nose, floor and roof, with articulated panels (doors) across the rear and occasionally at selected places on the sides, with the cargo space being permanently incorporated in the trailer and being insulated, possessing specific thermal properties intended for use with self-contained refrigeration systems. Flatbed (or platform) trailers consist of load-carrying main frames and a solid, flat or stepped

loading deck or floor permanently incorporated with and supported by frame rails and cross members.

The finished and unfinished chassis subject to this investigation are typically classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 8716.39.0090 and 8716.90.5060. Imports of finished and unfinished chassis may also enter under HTSUS subheading 8716.90.5010. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

[FR Doc. 2020–18712 Filed 8–25–20; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–570–135]

### Certain Chassis and Subassemblies Thereof From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**DATES:** Applicable August 19, 2020.

**FOR FURTHER INFORMATION CONTACT:** William Langley; AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3861.

### SUPPLEMENTARY INFORMATION:

#### The Petition

On July 30, 2020, the U.S. Department of Commerce (Commerce) received an antidumping duty (AD) petition concerning imports of certain chassis and subassemblies thereof (chassis) from the People's Republic of China (China) filed in proper form on behalf of the Coalition of American Chassis Manufacturers (the petitioner), the members of which are domestic producers of chassis.<sup>1</sup> The Petition was accompanied by a countervailing duty (CVD) petition concerning imports of chassis from China.<sup>2</sup>

On August 3 and 7, 2020, Commerce requested supplemental information pertaining to certain aspects of the

<sup>1</sup> The members of the Coalition of American Chassis Manufacturers are: Cheetah Chassis Corporation; Hercules Enterprises, LLC; Pitts Enterprises, Inc.; Pratt Industries, Inc.; and Stoughton Trailers, LLC. See Petitioner's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Petitions for the Imposition of Antidumping and Countervailing Duties," dated July 30, 2020 (the Petition) at Volume I and Exhibit I–1.

<sup>2</sup> *Id.*

<sup>34</sup> See section 782(b) of the Act.

<sup>35</sup> See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

<sup>36</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

Petition in separate supplemental questionnaires and a phone call with the petitioner.<sup>3</sup> On August 7 and 10, 2020, the petitioner filed timely responses to these requests for additional information.<sup>4</sup>

On August 11, 2020, Commerce officials spoke via phone call with the petitioner's counsel regarding certain issues pertaining to the proposed scope, import statistics, and U.S. price.<sup>5</sup> On August 13 and 14, 2020, the petitioner submitted timely responses to these requests for additional information.<sup>6</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of chassis from China are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the domestic chassis industry in the United States. Consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to the petitioner supporting the allegation.

Commerce finds that the petitioner filed the Petition on behalf of the

domestic industry because the petitioner is an interested party, as defined in section 771(9)(E) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested AD investigation.<sup>7</sup>

#### Period of Investigation

Because China is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the period of investigation is January 1, 2020 through June 30, 2020.

#### Scope of the Investigation

The products covered by this investigation are chassis from China. For a full description of the scope of this investigation, *see* the appendix to this notice.

#### Comments on the Scope of the Investigation

On August 3, 7, and 11, 2020, Commerce requested further information from the petitioner regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.<sup>8</sup> On August 7, 2020, the petitioner revised the scope.<sup>9</sup> The description of the merchandise covered by this investigation, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).<sup>10</sup> Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information, all such factual information should be limited to public information.<sup>11</sup> To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on September 8, 2020, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by

5:00 p.m. ET on September 18, 2020, which is ten calendar days after the initial comment deadline.<sup>12</sup>

Commerce requests that any factual information parties consider relevant to the scope of the investigation be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

#### Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.<sup>13</sup> An electronically filed document must be received successfully in its entirety by the time and date it is due.

#### Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of chassis to be reported in response to Commerce's AD questionnaire. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors of production (FOPs) accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, all comments must be filed by 5:00 p.m. ET on September 8, 2020, which is 20 calendar days from the signature date of this notice.<sup>14</sup> Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on September 18, 2020, which is ten calendar days after the initial comment

<sup>3</sup> See Commerce's Letters, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Chassis and Subassemblies Thereof from the People's Republic of China: Supplemental Questions" (General Issues Supplemental); and "Petition for the Imposition of Antidumping Duties on Imports of Certain Chassis and Subassemblies Thereof from the People's Republic of China: Supplemental Questions" both dated August 3, 2020; *see also* Memorandum, "Phone Call with Counsel to the Petitioner," dated August 7, 2020.

<sup>4</sup> See Petitioner's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Response to Supplemental Questions on General Issues Volume I of the Petition," dated August 7, 2020 (General Issues Supplement); *see also* Petitioner's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Errata to Response to Supplemental Questions on General Issues Volume I of the Petition," dated August 7, 2020 (Scope Errata); and Petitioner's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Response to Supplemental Questions on AD Volume II of the Petition," dated August 10, 2020.

<sup>5</sup> See Memorandum, "Phone Call with Counsel to the Petitioner," dated August 11, 2020.

<sup>6</sup> See Petitioner's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Response to Second Supplemental Questions on AD Volume II of the Petition," dated August 13, 2020 (Second China AD Supplement); *see also* Petitioner's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Response to Second Supplemental Questions (Question 2) on General Issues Volume I of the Petition," dated August 13, 2020; and Petitioner's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Response to Second Supplemental Questions (Question 1) on General Issues Volume I of the Petition," dated August 14, 2020 (Scope Supplement).

<sup>7</sup> See "Determination of Industry Support for the Petition" section, *infra*.

<sup>8</sup> See General Issues Supplemental at 3–4; *see also* Memorandum, "Phone Call with Counsel to the Petitioner," dated August 7, 2020.

<sup>9</sup> See General Issues Supplement at 5–7; *see also* Scope Errata at 5–6; and Scope Supplement at 1.

<sup>10</sup> See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>11</sup> See 19 CFR 351.102(b)(21) (defining "factual information").

<sup>12</sup> See 19 CFR 351.303(b).

<sup>13</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); *see also* *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at [https://access.trade.gov/help/Handbook\\_on\\_Electronic\\_Filing\\_Procedures.pdf](https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf).

<sup>14</sup> See 19 CFR 351.303(b).

deadline. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of the AD investigation.

#### Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,<sup>15</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>16</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an

investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.<sup>17</sup> Based on our analysis of the information submitted on the record, we have determined that chassis, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.<sup>18</sup>

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in the appendix to this notice. To establish industry support, the petitioner provided its own production of chassis in 2019 and compared this to the estimated total chassis production for the entire domestic industry.<sup>19</sup> We have relied on the data provided by the petitioner for purposes of measuring industry support.<sup>20</sup>

Our review of the data provided in the Petition, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.<sup>21</sup> First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not

required to take further action in order to evaluate industry support (e.g., polling).<sup>22</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.<sup>23</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.<sup>24</sup> Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.<sup>25</sup>

#### Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>26</sup>

The petitioner contends that the industry’s injured condition is illustrated by a significant volume of subject imports; reduced market share; underselling and price depression and/or suppression; lost sales and revenues; declines in production, shipments, net sales, and capacity utilization; decline in employment; declining financial performance; and the magnitude of the estimated dumping margin.<sup>27</sup> We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.<sup>28</sup>

<sup>22</sup> *Id.*; see also section 732(c)(4)(D) of the Act.

<sup>23</sup> See Attachment II of the China AD Initiation Checklist.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> See Volume I of the Petition at 25–26 and Exhibit I–13.

<sup>27</sup> See Volume I of the Petition at 15–16, 19–39 and Exhibits I–3, I–13, I–15 through I–17 and I–20 through I–31; see also General Issues Supplement at 10 and Exhibit I–Supp–4.

<sup>28</sup> See China AD Initiation Checklist at Attachment III, Analysis of Allegations and

<sup>15</sup> See section 771(10) of the Act.

<sup>16</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

<sup>17</sup> See Volume I of the Petition at 16–18 and Exhibits I–7 and I–18; see also General Issues Supplement at 7–9 and Exhibits I–Supp–1 and I–Supp–2.

<sup>18</sup> For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, see the Antidumping Duty Investigation Initiation Checklist: Certain Chassis and Subassemblies Thereof from the People’s Republic of China (China AD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Chassis and Subassemblies Thereof from the People’s Republic of China (Attachment II). This checklist is dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS.

<sup>19</sup> See Volume I of the Petition at 2–3 and Exhibits I–3 and I–17; see also General Issues Supplement at 9–10 and Exhibit I–Supp–3.

<sup>20</sup> See Volume I of the Petition at 2–3 and Exhibits I–3 and I–17; see also General Issues Supplement at 9–10 and Exhibit I–Supp–3. For further discussion, see Attachment II of the China AD Initiation Checklist.

<sup>21</sup> See Attachment II of the China AD Initiation Checklist.

## Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate the AD investigation of imports of chassis from China. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the China AD Initiation Checklist.

## U.S. Price

The petitioner based constructed export price (CEP) on information from a sale or offer for sale for chassis produced in and exported from China by a Chinese producer and adjusted for movement and other expenses, where appropriate.<sup>29</sup>

## Normal Value

Commerce considers China to be an NME country.<sup>30</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China as an NME country for purposes of the initiation of this investigation. Accordingly, NV in China is appropriately based on FOPs valued in a surrogate market economy country, in accordance with section 773(c) of the Act.

The petitioner states that Malaysia is an appropriate surrogate country because Malaysia is a market economy country that is at a level of economic development comparable to that of China and is a significant producer of comparable merchandise.<sup>31</sup> The petitioner submitted publicly-available information from Malaysia to value all FOPs.<sup>32</sup> Based on the information provided by the petitioner, we determine that it is appropriate to use Malaysia as a surrogate country for China for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selections

and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

## Factors of Production

The petitioner used the product-specific consumption rates and production costs of a U.S. manufacturer of chassis as a surrogate to value Chinese manufacturers' FOPs.<sup>33</sup> Additionally, the petitioner calculated factory overhead; selling, general and administrative expenses; and profit based on the experience of a Malaysian producer of comparable merchandise (i.e., fabricated and assembled steel sheet and bar products).<sup>34</sup>

## Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of chassis from China are being, or are likely to be, sold in the United States at LTFV. Based on a comparison of CEP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margin for chassis from China is 188.05 percent.<sup>35</sup>

## Initiation of LTFV Investigation

Based upon our examination of the Petition on chassis from China and supplemental responses, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an AD investigation to determine whether imports of chassis from China are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

## Respondent Selection

The petitioner named two companies in China as producers/exporters of chassis subject to the scope of this investigation.<sup>36</sup> Accordingly, and in the absence of any contradictory information, Commerce intends to examine all known producers/exporters of chassis from China.

## Separate Rates

In order to obtain separate-rate status in an NME investigation, producers/exporters must submit a separate-rate

application.<sup>37</sup> The specific requirements for submitting a separate-rate application in a China investigation are outlined in detail in the application itself, which is available on E&C's website at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 30 days after publication of this initiation notice.<sup>38</sup> Producers/exporters who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that respondents from China submit a response to the separate-rate application by the deadline in order to receive consideration for separate-rate status.

## Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that {Commerce} will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.<sup>39</sup>

## Distribution of Copies of the AD Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the Government of China via ACCESS.

Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Chassis and Subassemblies Thereof from the People's Republic of China (Attachment III).

<sup>29</sup> See China AD Initiation Checklist.

<sup>30</sup> See, e.g., *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017), and accompanying Preliminary Decision Memorandum at "China's Status as a Non-Market Economy," unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).

<sup>31</sup> See Volume II of the Petition at 2, 14–15 and Exhibit II–20.

<sup>32</sup> *Id.* at Exhibit II–20.

<sup>33</sup> *Id.* at 15 and Exhibit II–16.

<sup>34</sup> *Id.* at 22 and Exhibit II–21.

<sup>35</sup> See Second China AD Supplement at Exhibit II–Supp2–2.

<sup>36</sup> See Volume I of the Petition at Exhibit I–10.

<sup>37</sup> See Policy Bulletin 05.1: "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation Involving NME Countries," (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

<sup>38</sup> Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.

<sup>39</sup> See Policy Bulletin 05.1 at 6 (emphasis added).

Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

### ITC Notification

Commerce will notify the ITC of our initiation, as required by section 732(d) of the Act.

### Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of chassis from China are materially injuring, or threatening material injury to, a U.S. industry.<sup>40</sup> A negative ITC determination will result in the investigation being terminated.<sup>41</sup> Otherwise, this investigation will proceed according to statutory and regulatory time limits.

### Submission of Factual Information

*Factual information is defined in 19 CFR 351.102(b)(21) as:* (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>42</sup> and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.<sup>43</sup> Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Please review the regulations prior to submitting factual information in this investigation.

### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension

request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this investigation.

### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>44</sup> Parties must use the certification formats provided in 19 CFR 351.303(g).<sup>45</sup> Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed at 19 CFR 351.103(d)). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business

proprietary information until further notice.<sup>46</sup>

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: August 19, 2020.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

### Appendix

#### Scope of the Investigation

The merchandise covered by this investigation is chassis and subassemblies thereof, whether finished or unfinished, whether assembled or unassembled, whether coated or uncoated, regardless of the number of axles, for carriage of containers, or other payloads (including self-supporting payloads) for road, marine roll-on/roll-off (RORO) and/or rail transport. Chassis are typically, but are not limited to, rectangular framed trailers with a suspension and axle system, wheels and tires, brakes, a lighting and electrical system, a coupling for towing behind a truck tractor, and a locking system or systems to secure the shipping container or containers to the chassis using twistlocks, slide pins or similar attachment devices to engage the corner fittings on the container or other payload.

Subject merchandise includes, but is not limited to, the following subassemblies:

- Chassis frames, or sections of chassis frames, including kingpins or kingpin assemblies, bolsters consisting of transverse beams with locking or support mechanisms, goosenecks, drop assemblies, extension mechanisms and/or rear impact guards;
- Running gear assemblies or axle assemblies for connection to the chassis frame, whether fixed in nature or capable of sliding fore and aft or lifting up and lowering down, which may or may not include suspension(s) (mechanical or pneumatic), wheel end components, slack adjusters, axles, brake chambers, locking pins, and tires and wheels;
- Landing gear (legs) or landing gear assemblies, for connection to the chassis frame, capable of supporting the chassis when it is not engaged to a tractor; and
- Assemblies and/or components that connect to the chassis frame or a section of the chassis frame, such as, but not limited to, pintle hooks or B-trains (which include a fifth wheel), which are capable of connecting a chassis to a converter dolly or another chassis.

Importation of any of these subassemblies, whether assembled or unassembled, constitutes an unfinished chassis for purposes of this investigation.

Subject merchandise also includes chassis, whether finished or unfinished, entered with or for further assembly with components such as, but not limited to: Hub and drum assemblies, brake assemblies (either drum or disc), axles, brake chambers, suspensions and suspension components, wheel end

<sup>40</sup> See section 733(a) of the Act.

<sup>41</sup> *Id.*

<sup>42</sup> See 19 CFR 351.301(b).

<sup>43</sup> See 19 CFR 351.301(b)(2).

<sup>44</sup> See section 782(b) of the Act.

<sup>45</sup> See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

<sup>46</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19: Extension of Effective Period*, 85 FR 41363 (July 10, 2020).



components, landing gear legs, spoke or disc wheels, tires, brake control systems, electrical harnesses and lighting systems.

Processing of finished and unfinished chassis and components such as trimming, cutting, grinding, notching, punching, drilling, painting, coating, staining, finishing, assembly, or any other processing either in the country of manufacture of the in-scope product or in a third country does not remove the product from the scope. Inclusion of other components not identified as comprising the finished or unfinished chassis does not remove the product from the scope.

This scope excludes dry van trailers, refrigerated van trailers and flatbed trailers. Dry van trailers are trailers with a wholly enclosed cargo space comprised of fixed sides, nose, floor and roof, with articulated panels (doors) across the rear and occasionally at selected places on the sides, with the cargo space being permanently incorporated in the trailer itself. Refrigerated van trailers are trailers with a wholly enclosed cargo space comprised of fixed sides, nose, floor and roof, with articulated panels (doors) across the rear and occasionally at selected places on the sides, with the cargo space being permanently incorporated in the trailer and being insulated, possessing specific thermal properties intended for use with self-contained refrigeration systems. Flatbed (or platform) trailers consist of load-carrying main frames and a solid, flat or stepped loading deck or floor permanently incorporated with and supported by frame rails and cross members.

The finished and unfinished chassis subject to this investigation are typically classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 8716.39.0090 and 8716.90.5060. Imports of finished and unfinished chassis may also enter under HTSUS subheading 8716.90.5010. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

[FR Doc. 2020-18713 Filed 8-25-20; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XA390]

#### Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of SEDAR 70 Assessment Webinar IV for Gulf of Mexico greater amberjack.

**SUMMARY:** The SEDAR 70 stock assessment process for Gulf of Mexico

greater amberjack will consist of a series of data and assessment webinars. See **SUPPLEMENTARY INFORMATION.**

**DATES:** The SEDAR 70 Assessment Webinar III will be held September 11, 2020, from 1 p.m. to 3 p.m., Eastern Time.

**ADDRESSES:** The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

**SEDAR address:** 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Neer, SEDAR Coordinator; (843) 571-4366; email: [Julie.neer@safmc.net](mailto:Julie.neer@safmc.net)

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the Assessment Webinar are as follows:

1. Using datasets and initial assessment analysis recommended from the data webinars, panelists will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions.

2. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

#### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

**Note:** The times and sequence specified in this agenda are subject to change.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 21, 2020.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2020-18766 Filed 8-25-20; 8:45 am]

BILLING CODE 3510-22-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XA353]

#### South Atlantic Fishery Management Council; Public Meetings

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of a public meeting.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) will hold a meeting of the Scientific and Statistical Committee (SSC) Ecopath Model Review Workshop.

**DATES:** The SSC Ecopath Model Review Workgroup meeting will be conducted via webinar on Thursday, September 10, 2020, from 2 p.m. to 4 p.m.

**ADDRESSES:**

*Meeting address:* The meeting will be held via webinar.

*Council address:* South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

**FOR FURTHER INFORMATION CONTACT:** Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571-4366 or toll free: (866) SAFMC-10; fax: (843) 769-4520; email: [kim.iverson@safmc.net](mailto:kim.iverson@safmc.net).

**SUPPLEMENTARY INFORMATION:** The SSC Ecopath Model Review Workgroup meeting is open to the public and will be available via webinar as it occurs. Registration is required. Webinar registration information and other meeting materials will be posted to the Council's website at: <https://safmc.net/safmc-meetings/other-meetings/> as it becomes available.

The Workgroup will discuss and provide input to finalize the South Atlantic Ecopath Model Review Workgroup document.

**Special Accommodations**

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 days prior to the meeting.

**Note:** The times and sequence specified in this agenda are subject to change.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 21, 2020.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2020-18765 Filed 8-25-20; 8:45 am]

**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[RTID 0648-XA408]

**New England Fishery Management Council; Public Meeting**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its *Skate Advisory Panel* via webinar to consider

actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** This webinar will be held on Thursday, September 10, 2020, from 8:30 a.m. to 12 p.m. Webinar registration URL information: <https://attendee.gotowebinar.com/register/6635057202822326799>.

**ADDRESSES:** *Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465-0492.

**SUPPLEMENTARY INFORMATION:**

**Agenda**

The Skate Advisory Panel will review the 2020 Northeast Skate Complex Annual Monitoring Report (for FY 2019). The panel will also review Skate Committee work on developing problem statements, goals, and objectives and provide additional recommendations in Amendment 5 to the Northeast Skate Complex Fishery Management Plan (limited access). They will also develop recommendations for 2021 Council management priorities regarding the Northeast Skate Complex FMP and recommendations for addressing Executive Order 13921 on Promoting American Seafood Competitiveness and Economic Growth. Other business may be discussed, as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465-0492, at least 5 days prior to the meeting date.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 21, 2020.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2020-18768 Filed 8-25-20; 8:45 am]

**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[RTID 0648-XA401]

**Gulf of Mexico Fishery Management Council; Public Meeting**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of a public meeting.

**SUMMARY:** The Gulf of Mexico (GMFMC) and South Atlantic Fishery Management (SAFMC) Councils will hold a joint workgroup via webinar for Section 102 for the Modernizing Recreational Fisheries Management Act of 2018.

**DATES:** The meeting will convene on Thursday, September 10, 2020, from 9 a.m. to 4 p.m., EST.

**ADDRESSES:** The meeting will take place via webinar.

*Council address:* Gulf of Mexico Fishery Management Council, 4107 W. Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348-1630.

**FOR FURTHER INFORMATION CONTACT:** Ryan Rindone, Lead Fishery Biologist, Gulf of Mexico Fishery Management Council; [ryan.rindone@gulfcouncil.org](mailto:ryan.rindone@gulfcouncil.org); telephone: (813) 348-1630.

**SUPPLEMENTARY INFORMATION:**

Thursday, September 10, 2020; 9 a.m.—4 p.m.

The meeting will begin with introductions, adoption of the agenda and the minutes from the May 18, 2020, webinar, and review of the Scope of Work. The Workgroup will review: Alternative Approaches to Collect Recreational Catch and Effort Data; the Gulf of Mexico Headboat Collaborative Program; Interim Analyses in the Southeastern U.S.; Zone Management in the GMFMC and SAFMC; Carryover and Phase-in Strategies; and, Conditional Accountability Measures. The Workgroup then receive public comment. The Workgroup will discuss other business items, if any.

—Meeting adjourns

The meeting will be broadcast via webinar. You may register for the webinar by visiting [www.gulfcouncil.org](http://www.gulfcouncil.org) and clicking on the Workgroup meeting on the calendar.

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on [www.gulfcouncil.org](http://www.gulfcouncil.org) as they become available.

Although other non-emergency issues not on the agenda may come before the Workgroup for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Workgroup will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 21, 2020.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2020-18767 Filed 8-25-20; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XA411]

#### New England Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Skate Committee via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** This webinar will be held on Thursday, September 10, 2020, from 1 p.m. to 5 p.m. Webinar registration URL information: <https://attendee.gotowebinar.com/register/8672201560440195087>.

**ADDRESSES:** Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director,

New England Fishery Management Council; telephone: (978) 465-0492.

#### SUPPLEMENTARY INFORMATION:

##### Agenda

The Skate Committee will review the 2020 Northeast Skate Complex Annual Monitoring Report (for FY 2019). The committee will also review work on developing problem statements, goals, and objectives and provide additional recommendations in Amendment 5 to the Northeast Skate Complex Fishery Management Plan (limited access). They will also develop recommendations for 2021 Council management priorities regarding the Northeast Skate Complex FMP and recommendations for addressing Executive Order 13921 on Promoting American Seafood Competitiveness and Economic Growth. Other business may be discussed, as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

##### Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465-0492, at least 5 days prior to the meeting date.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 21, 2020.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2020-18769 Filed 8-25-20; 8:45 am]

**BILLING CODE 3510-22-P**

## BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB-2020-0030]

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Notice and request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Consumer Financial Protection (Bureau) is requesting to renew the Office of Management and Budget's (OMB's) approval for an existing information collection.

**DATES:** Written comments are encouraged and must be received on or before September 25, 2020 to be assured of consideration.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

**FOR FURTHER INFORMATION CONTACT:** Documentation prepared in support of this information collection request is available at [www.reginfo.gov](http://www.reginfo.gov) (this link becomes active on the day following publication of this notice). Select "Information Collection Review," under "Currently under Review," use the dropdown menu "Select Agency" and select "Consumer Financial Protection Bureau" (recent submissions to OMB will be at the top of the list). The same documentation is also available at <http://www.regulations.gov>. Requests for additional information should be directed to Darrin King, PRA Officer, at (202) 435-9575, or email: [CFPB\\_PRA@cfpb.gov](mailto:CFPB_PRA@cfpb.gov). If you require this document in an alternative electronic format, please contact [CFPB\\_Accessibility@cfpb.gov](mailto:CFPB_Accessibility@cfpb.gov). Please do not submit comments to these email boxes.

#### SUPPLEMENTARY INFORMATION:

*Title of Collection:* Fair Credit Reporting Act (Regulation V) 12 CFR 1022.

*OMB Control Number:* 3170-0002.

*Type of Review:* Extension without change of a currently approved collection.

*Affected Public:* Business or other for profit.

*Estimated Number of Respondents:* 779,073.

*Estimated Total Annual Burden Hours:* 6,246,866.

*Abstract:* The consumer disclosures included in Regulation V are designed to alert consumers that a financial institution furnished negative information about them to a consumer reporting agency, that they have a right to opt out of receiving marketing materials and credit or insurance offers, that their credit report was used in setting the material terms of credit that may be less favorable than the terms offered to consumers with better credit histories, that they maintain certain rights with respect to a theft of their identity that they reported to a consumer reporting agency, that they maintain rights with respect to knowing what is in their consumer reporting agency file, that they can request a free credit report, and that they can report a theft of their identity to the Bureau. Consumers then can use the information provided to consider how and when to check and use their credit reports. This is a routine request for OMB to renew its approval of the collections of information currently approved under this OMB control number. The Bureau

is not proposing any new or revised collections of information pursuant to this request.

*Request for Comments:* The Bureau issued a 60-day **Federal Register** notice on June 15, 2020, 85 FR 36188, Docket Number: CFPB–2020–0017. No Comments were received. Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be reviewed by OMB as part of its review of this request. All comments will become a matter of public record.

Dated: August 20, 2020.

**Darrin King,**

*Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.*

[FR Doc. 2020–18704 Filed 8–25–20; 8:45 am]

**BILLING CODE 4810–AM–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Transmittal No. 20–18]

### Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Arms sales notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of an arms sales notification.

**FOR FURTHER INFORMATION CONTACT:** Karma Job at [karma.d.job.civ@mail.mil](mailto:karma.d.job.civ@mail.mil) or (703) 697–8976.

**SUPPLEMENTARY INFORMATION:** This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20–18 with attached Policy Justification and Sensitivity of Technology.

Dated: August 13, 2020.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**BILLING CODE 5001–06–P**



DEFENSE SECURITY COOPERATION AGENCY  
201 12TH STREET SOUTH, SUITE 101  
ARLINGTON, VA 22202-5408

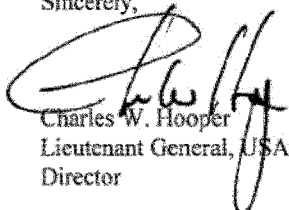
July 9, 2020

The Honorable Nancy Pelosi  
Speaker of the House  
U.S. House of Representatives  
H-209, The Capitol  
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-18 concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Japan for defense articles and services estimated to cost \$23.11 billion. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

  
Charles W. Hooper  
Lieutenant General, USA  
Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001-06-C

Transmittal No. 20-18

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Japan

(ii) *Total Estimated Value:*

Major Defense Equipment*	\$11.30 billion
Other .....	\$11.81 billion

TOTAL .....	\$23.11 billion
-------------	-----------------

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

*Major Defense Equipment (MDE):*  
Sixty-three (63) F-35A Conventional Take-Off and Landing (CTOL) Aircraft  
Forty-two (42) F-35B Short Take-Off and Vertical Landing (STOVL) Aircraft  
One hundred ten (110) Pratt and Whitney F135 Engines (includes 5 spares)

*Non-MDE:*

Also included are Electronic Warfare Systems; Command, Control, Communications, Computers and Intelligence/Communications, Navigation and Identification; Autonomic Logistics Global Support System, Autonomic Logistics Information System; Flight Mission Trainer; Weapons Employment Capability, and other Subsystems, Features, and Capabilities; F-35 unique infrared flares; reprogramming center access and F-35 Performance Based Logistics; software development/integration; flight test instrumentation; aircraft ferry and tanker support; spare and repair parts; support equipment, tools and test equipment; technical data and publications; personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistics support services;

and other related elements of logistical and program support.

(iv) *Military Department:* Air Force (JA-D-SGN)

(v) *Prior Related Cases, if any:* JA-D-SBC

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex.

(viii) *Date Report Delivered to Congress:* July 9, 2020

\*As defined in Section 47(6) of the Arms Export Control Act.

**POLICY JUSTIFICATION**

*Japan—F-35 Joint Strike Fighter Aircraft*

The Government of Japan has requested to buy sixty-three (63) F-35A Conventional Takeoff and Landing (CTOL) aircraft, forty-two (42) F-35B Short Take-Off and Vertical Landing

(STOVL) aircraft, and one hundred ten (110) Pratt and Whitney F135 engines (includes 5 spares). Also included are Electronic Warfare Systems; Command, Control, Communications, Computers and Intelligence/Communications, Navigation and Identification; Autonomic Logistics Global Support System, Autonomic Logistics Information System; Flight Mission Trainer; Weapons Employment Capability, and other Subsystems, Features, and Capabilities; F-35 unique infrared flares; reprogramming center access and F-35 Performance Based Logistics; software development/integration; flight test instrumentation; aircraft ferry and tanker support; spare and repair parts; support equipment, tools and test equipment; technical data and publications; personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics support. The estimated total cost is \$23.11 billion.

This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a major ally that is a force for political stability and economic progress in the Asia-Pacific region. It is vital to U.S. national interest to assist Japan in developing and maintaining a strong and effective self-defense capability.

The proposed sale of aircraft and support will augment Japan's operational aircraft inventory and enhance its air-to-air and air-to-ground self-defense capability. The Japan Air Self-Defense Force's F-4 aircraft are being decommissioned as F-35s are added to the inventory. Japan will have no difficulty absorbing these aircraft into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractors will be Lockheed Martin Aeronautics Company, Fort Worth, Texas; and Pratt and Whitney Military Engines, East Hartford, Connecticut. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require multiple trips to Japan involving U.S. Government and contractor representatives for technical reviews/support, programs management, and training over a period of 25 years. U.S. contractor representatives will be required in Japan to conduct Contractor Engineering Technical Services (CETS) and Autonomic Logistics and Global

Support (ALGS) for after-aircraft delivery.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 20-18

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The F-35A Conventional Take Off and Landing (CTOL) aircraft is a single-seat, singleengine, all-weather, stealth, fifth-generation, multirole aircraft. The F-35B Short Take-Off and Vertical Landing (STOVL) variant is capable of operating from short airfields and ships. Both variants contain sensitive technology including the low observable airframe/outer mold line, the Pratt and Whitney F135 engine, AN/APG-81 radar, an integrated core processor central computer, a mission systems/electronic warfare suite, a multiple sensor suite, technical data/documentation, and associated software. Sensitive elements of the F-35A and F-35B are also included in operational flight and maintenance trainers. Sensitive and classified elements of the F-35A CTOL and F-35B STOVL aircraft include hardware, accessories, components, and associated software for the following major subsystems:

a. The Pratt and Whitney F135 engine is a single 40,000-lb thrust class engine designed for the F-35 and assures highly reliable, affordable performance. The engine is designed to be utilized in all F-35 variants, providing unmatched commonality and supportability throughout the worldwide base of F-35 users. The STOVL propulsion configuration consists of the main engine, diverter-less supersonic inlet, a three (3) Bearing Swivel Module, Roll Posts and Duct Assembly System, and Lift Fan.

b. The AN/APG-81 Active Electronically Scanned Array (AESA) is a high processing power/high transmission power electronic array capable of detecting air and ground targets from a greater distance than mechanically scanned array radars. It also contains a synthetic aperture radar (SAR), which creates high-resolution ground maps and provides weather data to the pilot, and provides air and ground tracks to the mission system, which uses it as a component to fuse sensor data.

c. The Electro-Optical Targeting System (EOTS) provides long-range detection and tracking as well as an

infrared search and track (IRST) and forward-looking infrared (FLIR) capability for precision tracking, weapons delivery, and bomb damage assessment (BDA). The EOTS replaces multiple separate internal or podded systems typically found on legacy aircraft.

d. The Electro-Optical Distributed Aperture System (EODAS) provides the pilot with full spherical coverage for air-to-air and air-to-ground threat awareness, day/night vision enhancements, a fire control capability, and precision tracking of wingmen/friendly aircraft. The EODAS provides data directly to the pilot's helmet as well as the mission system.

e. The Electronic Warfare (EW) system is a reprogrammable, integrated system that provides radar warning and electronic support measures (ESM) along with a fully integrated countermeasures (CM) system. The EW system is the primary subsystem used to enhance situational awareness, targeting support and self-defense through the search, intercept, location and identification of in-band emitters and to automatically counter IR and RF threats.

f. The Command, Control, Communications, Computers and Intelligence/ Communications, Navigation, and Identification (C4I/CNI) system provides the pilot with unmatched connectivity to flight members, coalition forces, and the battlefield. It is an integrated subsystem designed to provide a broad spectrum of secure, anti-jam voice and data communications, precision radio navigation and landing capability, self-identification, beyond visual range target identification, and connectivity to off-board sources of information. It also includes an inertial navigation and global positioning system (GPS) for precise location information. The functionality is tightly integrated within the mission system to enhance efficiency.

g. The aircraft C4I/CNI system includes two data links, the Multi-Function Advanced Data Link (MADL) and Link 16. The MADL is designed specifically for the F-35 and allows for stealthy communications between F-35s. Link 16 data link equipment allows the F-35 to communicate with legacy aircraft using widely-distributed J-series message protocols.

h. The F-35 Autonomic Logistics Global Sustainment (ALGS) provides a fully integrated logistics management solution. ALGS integrates a number of functional areas, including supply chain management, repair, support equipment, engine support, and training. The ALGS infrastructure

employs a state-of-the-art information system that provides real-time, decision-worthy information for sustainment decisions by flight line personnel. Prognostic health monitoring technology is integrated with the air system and is crucial to predictive maintenance of vital components.

i. The F-35 Autonomic Logistics Information System (ALIS) provides an intelligent information infrastructure that binds all the key concepts of ALGS into an effective support system. ALIS establishes the appropriate interfaces among the F-35 Air Vehicle, the warfighter, the training system, government information technology (IT) systems, and supporting commercial enterprise systems. Additionally, ALIS provides a comprehensive tool for data collection and analysis, decision support, and action tracking.

j. The F-35 Training System includes several training devices to provide integrated training for pilots and maintainers. The pilot training devices include a Full Mission Simulator (FMS) and Deployable Mission Rehearsal Trainer (DMRT). The maintainer training devices include an Aircraft Systems Maintenance Trainer (ASMT), Ejection System Maintenance Trainer (ESMT), Outer Mold Line (OML) Lab, Flexible Linear Shaped Charge (FLSC) Trainer, F135 Engine Module Trainer, and Weapons Loading Trainer (WLT). The F-35 Training System can be integrated, where both pilots and maintainers learn in the same Integrated Training Center (ITC). Alternatively, the pilots and maintainers can train in separate facilities (Pilot Training Center and Maintenance Training Center).

k. Other subsystems, features, and capabilities include the F-35's low observable air frame, Integrated Core

Processor (ICP) Central Computer, Helmet Mounted Display System (HMDS), Pilot Life Support System, Off-Board Mission Support (OMS) System, and publications/maintenance manuals. The HMDS provides a fully sunlight readable, bi-ocular display presentation of aircraft information projected onto the pilot's helmet visor. The use of a night vision camera integrated into the helmet eliminates the need for separate Night Vision Goggles (NVG). The Pilot Life Support System provides a measure of Pilot Chemical, Biological, and Radiological Protection through use of an OnBoard Oxygen Generating System (OBOGS); and an escape system that provides additional protection to the pilot. OBOGS takes the Power and Thermal Management System (PTMS) air and enriches it by removing gases (mainly nitrogen) by adsorption, thereby increasing the concentration of oxygen in the product gas and supplying breathable air to the pilot. The OMS provides a mission planning, mission briefing, and a maintenance/intelligence/tactical debriefing platform for the F-35.

2. The Reprogramming Center is located in the United States and provides F-35 customers a means to update F-35 electronic warfare databases.

3. The highest level of classification of information included in this potential sale is SECRET.

4. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

5. A determination has been made that Japan can provide substantially the

same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furthering U.S. foreign policy and national security objectives outlined in the Policy Justification.

6. All defense articles and services listed in this transmittal have been authorized for release and export to Japan.

[FR Doc. 2020-18700 Filed 8-25-20; 8:45 am]

BILLING CODE 5001-06-P

---

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Transmittal No. 20-28]

#### Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Arms sales notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of an arms sales notification.

**FOR FURTHER INFORMATION CONTACT:** Karma Job at [karma.d.job.civ@mail.mil](mailto:karma.d.job.civ@mail.mil) or (703) 697-8976.

**SUPPLEMENTARY INFORMATION:** This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20-28 with attached Policy Justification and Sensitivity of Technology.

Dated: August 14, 2020.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

BILLING CODE 5001-06-P





**DEFENSE SECURITY COOPERATION AGENCY**  
 201 12<sup>TH</sup> STREET SOUTH, SUITE 101  
 ARLINGTON, VA 22202-5408

July 23, 2020

The Honorable Nancy Pelosi  
 Speaker of the House  
 U.S. House of Representatives  
 H-209, The Capitol  
 Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-28 concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Chile for defense articles and services estimated to cost \$634.70 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hoover  
 Lieutenant General, USA  
 Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

**BILLING CODE 5001-06-C**

Transmittal No. 20-28

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Chile

(ii) *Total Estimated Value:*

Major Defense Equipment*	\$ 30.52 million
Other .....	\$604.18 million
<b>TOTAL .....</b>	<b>\$634.70 million</b>

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* Equipment and related services for F-16 Modernization to include:

*Major Defense Equipment (MDE):*  
 Nineteen (19) Joint Helmet-Mounted Cueing Systems (JHMCS)

Six (6) Inert MK-82 (500LB) General Purpose Bomb Bodies  
 Two (2) MXU-650KB Air Foil Groups (AFG)  
 Forty-four (44) LN-260 Embedded GPS/INS (EGI)  
 Forty-nine (49) Multifunctional Information Distribution System Joint Tactical Radios (MIDS JTRS)  
*Non-MDE:*  
 Also included are avionics and Mode 5 equipment and software upgrades, integration, and test; software and software support; ARC-238 Radios; Combined Altitude Radar Altimeters (CARA); Joint Mission Planning System (JMPS) support; Identification Friend or Foe (IFF) AN/APX-126 Combined Interrogator Transponders, cryptographic appliques, keying equipment, and encryption devices; weapon system spares and support; bomb components; High-Bandwidth

Compact Telemetry Modules (HCTMs); secure communications and precision navigation equipment; aircraft displays; additional spare and repair/return parts; publications, charts, and technical documentation; integration and test equipment; U.S. Government and contractor engineering, technical and logistical support services; and other related elements of logistics and program support.

(iv) *Military Department:* Air Force (CI-D-VAZ)

(v) *Prior Related Cases, if any:* CI-D-CAW, CI-D-FAA, CI-D-GBK, CI-D-GBL, GBM, CI-D-GBO, CI-D-GRS, CI-D-KAB, CI-D-KBB, CI-D-MAA, CI-D-OAA, CI-D-PAC, CI-D-QAA, CI-D-QAB, CI-D-QAE, CI-D-QAN, CI-D-QAP, CI-D-RAD, CI-D-RAG, CI-D-SGB, CI-D-VAE, CI-D-YAA, CI-D-YAB

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* July 23, 2020

\* As defined in Section 47(6) of the Arms Export Control Act.

#### POLICY JUSTIFICATION

##### Chile—F-16 Modernization

The Government of Chile has requested to buy equipment and related services for F-16 Modernization to include: nineteen (19) Joint Helmet-Mounted Cueing Systems (JHMCS); six (6) inert MK-82 (500LB) general purpose bomb bodies; two (2) MXU-650KB Air Foil Groups (AFG); forty-four (44) LN-260 Embedded GPS/INS (EGI); forty-nine (49) Multifunctional Information Distribution System Joint Tactical Radios (MIDS JTRS). Also included are avionics and Mode 5 equipment and software upgrades, integration, and test; software and software support; ARC-238 Radios; Combined Altitude Radar Altimeters (CARA); Joint Mission Planning System (JMPS) support; Identification Friend or Foe (IFF) AN/APX-126 Combined Interrogator Transponders, cryptographic appliques, keying equipment, and encryption devices; weapon system spares and support; bomb components; High-Bandwidth Compact Telemetry Modules (HCTMs); secure communications and precision navigation equipment; aircraft displays; additional spare and repair/return parts; publications, charts, and technical documentation; integration and test equipment; U.S. Government and contractor engineering, technical and logistical support services; and other related elements of logistics and program support. The total estimated program cost is \$634.70 million.

This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a strategic partner in South America.

The proposed sale will improve Chile's capability to meet current and future threats by modernizing its F-16 fleet, which will allow Chile to maintain sovereignty and homeland defense, increase interoperability with the United States and other partners, and deter potential adversaries. Chile will have no difficulty absorbing the upgrades into its armed forces.

The proposed sale of this equipment will not alter the basic military balance in the region.

The principal contractor will be Lockheed Martin, Bethesda, MD. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Chile.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 20-28

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. Joint Helmet Mounted Cueing System (JHMCS) is a modified HGU-55/P helmet that incorporates a visor-projected Heads-Up Display (HUD) to cue weapons and aircraft sensors to air and ground targets enabling the pilot to monitor aircraft information without interrupting his field of view through the cockpit canopy.

2. Embedded GPS-INS (EGI) LN-260 is a sensor that combines GPS and inertial sensor inputs to provide accurate location information for navigation and targeting.

3. Multifunctional Information Distribution System (MIDS) Joint Tactical Radio (JTRS) is a software defined radio and data link. MIDS JTRS terminals can be loaded with sensitive cryptographic keys which secure data and radio communications.

4. Enhanced Paveway II (EP II) Laser Guided Bomb (LGB) is a maneuverable, all-weather, free-fall weapon that guides to a spot of laser energy reflected off the target. The "enhanced" component is the addition of GPS-aided Inertial Navigation Systems (GAINS) guidance to the laser seeker. Laser designation for the LGB can be provided by a variety of laser target markers or designators. The EP II consists of an Enhanced Computer Control Group (ECCG) that is not warhead specific and a warhead-specific Air Foil Group (AFG) that attaches to the nose and tail of a GP bomb body.

GBU-49 is a 500lb weapon that can use an inert or live MK-82 bomb body fitted with MXU-650 or WGU-63 type AFGs, and MAU-210 ECCGs to guide to either a laser designated target or GPS coordinates of a target.

5. High-Bandwidth Compact Telemetry Modules (HCTM) are flight test instrumentation hardware that gathers real-time weapon data during testing of a munition.

6. The Modular Mission Computer (MMC) 7000AH is the central aircraft computer of the F-16. It serves as the hub for all aircraft subsystems and avionics data transfer.

7. AN/ARC-238 radio is a secure voice communications radio system.

8. Combined Altitude Radar Altimeter (CARA) is a radar system used to measure the aircraft altitude above the terrain. It is comprised of four components: a Receiver/Transmitter, Signal Data Converter, and Transmit and Receive Antennas. The upgrade will involve the Receiver/Transmitter as part of the overall Avionics upgrades.

9. Joint Mission Planning System (JMPS) is a multi-platform PC based mission planning system.

10. The AN/APX-126 Combined Interrogator Transponder is an Identification Friend or Foe system capable of transmitting and interrogating Modes 4 and 5.

11. The highest level of classification of information included in this potential sale is SECRET.

12. If a technologically-advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

13. A determination has been made that Chile can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

14. All defense articles and services listed in this transmittal have been authorized for release and export to Chile.

[FR Doc. 2020-18702 Filed 8-25-20; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Transmittal No. 20-46]

### Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Arms sales notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of an arms sales notification.

**FOR FURTHER INFORMATION CONTACT:** Karma Job at [karma.d.job.civ@mail.mil](mailto:karma.d.job.civ@mail.mil) or (703) 697-8976.

**SUPPLEMENTARY INFORMATION:** This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164

dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20-46 with attached Policy Justification.

Dated: August 14, 2020.  
**Aaron T. Siegel,**  
*Alternate OSD Federal Register Liaison  
 Officer, Department of Defense.*  
**BILLING CODE 5061-06-C**



**DEFENSE SECURITY COOPERATION AGENCY**  
**201 12<sup>TH</sup> STREET SOUTH, SUITE 101**  
**ARLINGTON, VA 22202-5408**

July 10, 2020

The Honorable Nancy Pelosi  
 Speaker of the House  
 U.S. House of Representatives  
 H-209, The Capitol  
 Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-46 concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Republic of Korea for defense articles and services estimated to cost \$250 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper  
 Lieutenant General, USA  
 Director

Enclosures:

1. Transmittal
2. Policy Justification

Transmittal No. 20-46

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Republic of Korea

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	\$ 0 million
Other .....	\$250 million

TOTAL ..... \$250 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* The Republic of Korea has requested to buy items and services to extend follow-on

support to its Peace Krypton reconnaissance aircraft.

*Major Defense Equipment (MDE):*  
 None

*Non-MDE:*

Included are Ground System Modernization (GSM) and sustainment of Prime Mission Equipment (PME); Field Service Representatives (FSR); minor modifications and upgrades; Joint Mission Planning System (JMPS); spares and repair and return of parts; publications and technical documentation; U.S. Government and contractor engineering, technical, and logistical support services; and other

related elements of logistics and program support.

(iv) *Military Department:* Air Force (KS-D-QEU)

(v) *Prior Related Cases, if any:* KS-D-GCB, KS-D-PAI

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* **July 10, 2020**

\* As defined in Section 47(6) of the Arms Export Control Act.

**POLICY JUSTIFICATION*****Korea—Peace Krypton Follow-On Support and Equipment Upgrades***

The Republic of Korea has requested to buy items and services to extend follow-on support to its Peace Krypton reconnaissance aircraft. Included are Ground System Modernization (GSM) and sustainment of Prime Mission Equipment (PME); Field Service Representatives (FSR); minor modifications and upgrades; Joint Mission Planning System (JMPS); spares and repair and return of parts; publications and technical documentation; U.S. Government and contractor engineering, technical, and logistical support services; and other related elements of logistics and program support. The estimated total program cost is \$250 million.

This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a Major Non-NATO Ally that is a force for political stability and economic progress in the Pacific region.

The proposed sale will improve Korea's capability to meet current and

future threats by supporting operation of its fleet of Peace Krypton aircraft and enabling continued Intelligence, Surveillance and Reconnaissance (ISR) interoperability with the United States. Korea will have no difficulty absorbing this follow-on support into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Lockheed Martin, Bethesda, MD. There are no known offset requirements associated with this sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to the Republic of Korea.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2020-18785 Filed 8-25-20; 8:45 am]

**BILLING CODE 5001-06-P**

**DEPARTMENT OF DEFENSE****Office of the Secretary**

**[Transmittal No. 20-31]**

**Arms Sales Notification**

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Arms sales notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of an arms sales notification.

**FOR FURTHER INFORMATION CONTACT:** Karma Job at [karma.d.job.civ@mail.mil](mailto:karma.d.job.civ@mail.mil) or (703) 697-8976.

**SUPPLEMENTARY INFORMATION:** This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20-31 with attached Policy Justification and Sensitivity of Technology.

Dated: August 17, 2020.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*



**DEFENSE SECURITY COOPERATION AGENCY**  
 201 12<sup>TH</sup> STREET SOUTH, SUITE 101  
 ARLINGTON, VA 22202-5408

July 9, 2020

The Honorable Nancy Pelosi  
 Speaker of the House  
 U.S. House of Representatives  
 H-209, The Capitol  
 Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-41 concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Belgium for defense articles and services estimated to cost \$33.3 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper  
 Lieutenant General, USA  
 Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 20-31

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Argentina

(ii) *Total Estimated Value:*

Major Defense Equipment* ..	\$ 69 million
Other .....	\$ 31 million

TOTAL ..... \$100 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

*Major Defense Equipment (MDE):*

Twenty-seven (27) M1126 Stryker Infantry Carrier Vehicles  
 Twenty-seven (27) M2 Flex .50 Cal Machine Guns

*Non-MDE:*

Also included are AN/VAS-5 Driver's Vision Enhancers; AN/VIC-3 Vehicle Intercom Systems; AN/VRC-91E Single

Channel Ground and Airborne Radio System (SINCGARS); Basic Issue Items (Bli); Components of End Items (COEI); Additional Authorized List (AAL); Special Tools and Test Equipment (STTE); M6 Smoke Grenade launchers and associated spares; Outside Continental United States (OCONUS) De-processing Service; OCONUS Contractor-provided training; Field Service Representatives (FSR); technical manuals; spare parts; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistical and program support.

(iv) *Military Department:* Army (AR-B-UYU)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or*

*Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* July 6, 2020

\* As defined in Section 47(6) of the Arms Export Control Act.

**POLICY JUSTIFICATION**

*Argentina—Stryker Infantry Carrier Vehicles*

The Government of Argentina has requested to buy twenty-seven (27) M1126 Stryker Infantry Carrier Vehicles and twenty-seven (27) M2 Flex .50 Cal Machine Guns. Also included are AN/VAS-5 Driver's Vision Enhancers; AN/VIC-3 Vehicle Intercom Systems; AN/VRC-91E Single Channel Ground and Airborne Radio System (SINCGARS); Basic Issue Items (Bli); Components of End Items (COEI); Additional Authorized List (AAL); Special Tools and Test Equipment (STTE); M6 Smoke Grenade launchers and associated

spares; Outside Continental United States (OCONUS) De-processing Service; OCONUS Contractor-provided training; Field Service Representatives (FSR); technical manuals; spare parts; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistical and program support. The total estimated program cost is \$100 million.

This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a Major Non-NATO Ally that is a strategic partner in South America.

The proposed sale will improve Argentina's capability to meet current and future threats by increasing operational capabilities and force availability. Argentina will use the Stryker vehicles to conduct stability operations in support of disaster relief and international peace keeping obligations. Argentina will have no difficulty absorbing these vehicles into its armed forces.

The proposed sale of this equipment will not alter the basic military balance in the region.

The prime contractor will be General Dynamics Land Systems, Anniston, AL. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale will require the temporary assignment of two (2) U.S. contractor representatives to Argentina to support the program.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 20-31

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The M1126 Stryker is an infantry carrier vehicle transporting nine soldiers, their mission equipment, and a crew of two, consisting of a driver and vehicle commander. It is equipped with armor protection, M2 machine guns, and M6 smoke grenade launchers for self-protection. The Stryker is an eight-wheeled vehicle powered by a 350 hp diesel engine. It incorporates a central tire inflation system, run-flat tires, and a vehicle height management system. The Stryker is capable of supporting a communications suite, a Global Positioning System (GPS), and a high frequency and near-term digital radio systems. The Stryker is deployable by C-130 aircraft and combat capable upon arrival. The Stryker is capable of self-deployment by highway and self-recovery. It has a low noise level that reduces crew fatigue and enhances survivability. It moves about the battlefield quickly and is optimized for close, complex, or urban terrain. The Stryker program leverages non-developmental items with common subsystems and components to quickly acquire and field these systems.

2. The AN/VAS-5 Driver's Vision Enhancer is a compact thermal camera providing armored vehicle drivers with day or night time visual awareness in clear or reduced vision (fog, smoke, dust) situations. The system provides the driver a 180 degree viewing angle using a high resolution infrared sensor and image stabilization to reduce the effect of shock and vibration. The viewer and monitor are ruggedized for operation in tactical environments.

3. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

4. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or

be used in the development of a system with similar or advanced capabilities.

5. A determination has been made that Argentina can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

6. All defense articles and services listed in this transmittal have been authorized for release and export to the Argentina.

[FR Doc. 2020-18786 Filed 8-25-20; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Transmittal No. 20-47]

### Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Arms sales notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of an arms sales notification.

**FOR FURTHER INFORMATION CONTACT:** Karma Job at [karma.d.job.civ@mail.mil](mailto:karma.d.job.civ@mail.mil) or (703) 697-8976.

**SUPPLEMENTARY INFORMATION:** This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20-47 with attached Policy Justification and Sensitivity of Technology.

Dated: August 13, 2020.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

BILLING CODE 5001-06-P



**DEFENSE SECURITY COOPERATION AGENCY**  
 201 12<sup>TH</sup> STREET SOUTH, SUITE 101  
 ARLINGTON, VA 22202-5408

July 6, 2020

The Honorable Nancy Pelosi  
 Speaker of the House  
 U.S. House of Representatives  
 H-209, The Capitol  
 Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-47 concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Lithuania for defense articles and services estimated to cost \$380 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper  
 Lieutenant General, USA  
 Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

**BILLING CODE 5001-06-C**

Transmittal No. 20-47

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Lithuania

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	\$150 million
Other .....	\$230 million
<b>TOTAL .....</b>	<b>\$380 million</b>

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* The Government of Lithuania has requested to buy six (6) UH-60M Black Hawk Helicopters in standard U.S. Government configuration with

designated unique equipment and Government Furnished Equipment (GFE).

*Major Defense Equipment (MDE):*  
 Six (6) UH-60M Black Hawk Helicopters with Designated Unique Equipment  
 Fourteen (14) T700-GE-701D Engines (12 installed and 2 spares)  
 Eight (8) AN/AAR-57 Common Missile Warning System (CMWS) (6 production and 2 spares)  
 Twelve (12) M240H Machine Guns  
*Non-MDE:*

Also included are fifteen (15) EAGLE +429 Embedded Global Positioning/ Inertial Navigation (EGI) System (12 production and 3 spares); eight (8) AN/APX-123A Identification Friend or Foe (IFF) transponder (6 production and 2 spares); fifteen (15) AN/ARC-201D

(twelve (12) production and three (3) spares); fifteen (15) AN/ARC-231 radios (12 production and 3 spares); eight (8) AN/ARC-220 radios (6 production and 2 spares); two (2) VRC-100 HF Radio Ground Stations (1 for primary operations and 1 spares); eight (8) AN/AVR-2B Laser Warning Receiver (6 production and 2 spares); twelve (12) Common Missile Warning System (CMWS) User Data Module (UDM); eight (8) TALON Forward Looking Infrared Radar (TALON FLIR) (6 production and 2 spares); eight (8) EBC-406 Emergency Locator Transmitter (6 production and 2 spares); thirty (30) AN/AVS-6 Military Grade Night Vision Goggles; fifteen (15) AN/AVS-7 Improved Heads Up Display (IHUD) (Day) (12 for primary aircrew and 3 spares); fifteen (15) AN/AVS-7

Improved Heads Up Display (IHUD (Night) (12 for primary aircrew and 3 spares); five hundred (500) 1305-A965, CTG, 25.4mm, decoy M839; eight hundred (800) flare, aircraft, countermeasure, M206; thirty-eight thousand four hundred (38,400) 7.62mm, 4 Ball, M80, 1 Tracer, Linked A; eight (8) cartridge, impulse, MH44-0; twenty-four (24) cartridge, aircraft fire extinguisher; eight (8) cartridge, impulse, CCU-92/A; one thousand four hundred forty (1,440) cartridge, impulse, BBU-35/B; aircraft warranty, air worthiness support, spare and repair parts, support equipment, communication equipment, publications and technical documentation, personnel training and training equipment, ground support equipment, site surveys, tool and test equipment, Security Assistance Training Field Activity (SATFA) Aviation Courses, Technical Assistance Fielding Team (TAFT), U.S. Government and contractor technical and logistics support services, and other related element of program, technical and logistics support.

(iv) *Military Department: Army (LH-B-UDT)*

(v) *Prior Related Cases, if any: None*

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None*

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Attached Annex*

(viii) *Date Report Delivered to Congress: July 6, 2020*

\*As defined in Section 47(6) of the Arms Export Control Act.

#### POLICY JUSTIFICATION

##### *Lithuania—UH-60M Black Hawk Helicopters*

The Government of Lithuania has requested to buy six (6) UH-60M Black Hawk helicopters in standard U.S. Government configuration with designated unique equipment and Government Furnished Equipment (GFE) with fourteen (14) T700-GE-701D engines (12 installed and 2 spares); eight (8) AN/AAR-57 Common Missile Warning System (CMWS) (6 production and 2 spares); twelve (12) M240H machine guns. Also included are fifteen (15) EAGLE +429 Embedded Global Positioning/Inertial Navigation (EGI) System (12 production and 3 spares); eight (8) AN/APX-123A Identification Friend or Foe (IFF) transponder (6 production and 2 spares); fifteen (15) AN/ARC-201D (twelve (12) production and three (3) spares); fifteen (15) AN/ARC-231 radios (12 production and 3 spares); eight (8) AN/ARC-220 radios (6

production and 2 spares); two (2) VRC-100 HF Radio Ground Stations (1 for primary operations and 1 spares); eight (8) AN/AVR-2B Laser Warning Receiver (6 production and 2 spares); twelve (12) Common Missile Warning System (CMWS) User Data Module (UDM); eight (8) TALON Forward Looking Infrared Radar (TALON FLIR) (6 production and 2 spares); eight (8) EBC-406 Emergency Locator Transmitter (6 production and 2 spares); thirty (30) AN/AVS-6 Military Grade Night Vision Goggles; fifteen (15) AN/AVS-7 Improved Heads Up Display (IHUD) (Day) (12 for primary aircrew and 3 spares); fifteen (15) AN/AVS-7 Improved Heads Up Display (IHUD (Night) (12 for primary aircrew and 3 spares); five hundred (500) 1305-A965, CTG, 25.4mm, decoy M839; eight hundred (800) flare, aircraft, countermeasure, M206; thirty-eight thousand four hundred (38,400) 7.62mm, 4 Ball, M80, 1 Tracer, Linked A; eight (8) cartridge, impulse, MH44-0; twenty-four (24) cartridge, aircraft fire extinguisher; eight (8) cartridge, impulse, CCU-92/A; one thousand four hundred forty (1,440) cartridge, impulse, BBU-35/B; aircraft warranty, air worthiness support, spare and repair parts, support equipment, communication equipment, publications and technical documentation, personnel training and training equipment, ground support equipment, site surveys, tool and test equipment, Security Assistance Training Field Activity (SATFA) Aviation Courses, Technical Assistance Fielding Team (TAFT), U.S. Government and contractor technical and logistics support services, and other related elements of program, technical and logistics support. The total estimated program cost is \$380 million.

This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a NATO ally that is an important force for ensuring peace and stability in Europe.

The proposed sale of these UH-60 helicopters to Lithuania will significantly increase its capability to provide troop lift, border security, anti-terrorist, medical evacuation, search and rescue, re-supply/external lift, combat support in all weather. These UH-60 helicopters will allow for interoperability with U.S. and NATO forces in rapid response to a variety of missions and quick positioning of troops with minimal helicopter assets.

Lithuania intends to use these defense articles and services to modernize and expand its armed forces to provide multi-mission support in its region and combat terrorism threats. Lithuania will

have no difficulty absorbing these helicopters into its armed forces.

The proposed sale of this equipment will not alter the basic military balance in the region.

The principal contractors will be Sikorsky Aircraft Company, Stratford, CT; and General Electric Aircraft Company (GEAC) in Lynn, MA. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale may require the assignment of an additional three U.S. Government and five contractor representatives in country full-time to support the delivery and training for approximately two-five years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 20-47

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

#### *(vii) Sensitivity of Technology:*

1. The UH-60M aircraft is a medium lift four bladed aircraft which includes two (2) T-701D Engines. The aircraft has four (4) Multifunction Displays (MFD), which provides aircraft system, flight, mission, and communication management systems. The instrumentation panel includes four (4) Multifunction Displays (MFDs), two (2) Pilot and Co-Pilot Flight Director Panels, and two (2) Data Concentrator Units (DCUs). The Navigation System will have Embedded GPS/INS (EGIs), and two (2) Advanced Flight Control Computer Systems (AFCC), which provide 4 axis aircraft control.

2. The EAGLE +429 Embedded Global Positioning / Inertial Navigation (EGI) System provides GPS and INS capabilities to the aircraft. The EGI will include Selective Availability Anti-Spoofing Module (SAASM) security modules to be used for secure GPS PPS.

3. The ARC-231(V)(C) Radio System operates from 30 to 512 MHz, AM/FM Very High Frequency (VHF), Ultra High Frequency (UHF) Line-of-Sight (LOS) with frequency agile modes Electronic counter-countermeasures (ECCM), UHF Satellite Communications (SATCOM), Demand Assigned Multiple Access (DAMA), Integrated Waveform (IW), Air Traffic Control (ATC) channel spacing is operator selectable in 5, 8.33, 12.5, and 25kHz steps. Standard Ship-to-Shore Maritime operation is also available. Communications security is achieved via an updated embedded encryption engine, certified by the National



Security Agency (NSA).

Communications integrity is maintained with SINCGARS (Single Channel Ground and Airborne Radio System) and HAVE QUICK I and II frequency agile modes. UHF SATCOM and DAMA protocols provide BLOS (Beyond Line-of-Sight) satellite communications. Networking is achieved with an embedded Internet Protocol (IP) stack and menu configurable network parameters.

4. The AN/APX-123A, Identification Friend or Foe (IFF) Transponder, is a space diversity transponder and is installed on various military platforms. When installed in conjunction with platform antennas and the Remote Control Unit (or other appropriate control unit), the transponder provides identification, altitude and surveillance reporting in response to interrogations from airborne, ground-based and/or surface interrogators.

5. The AN/ARC-201D, Single Channel Ground to Air Radio System (SINCGARS), is a tactical airborne radio subsystem that provides secure, anti-jam voice and data communication. The integration of COMSEC and Data Rate Adapter (DRA) combines three Line Replaceable Units into one and reduces overall weight of the aircraft.

6. The VRC-100 High Frequency (HF) Communication System is the ground station version of the AN/ARC-220 for use in Aviation Operation Centers. It provides for advanced voice and data capabilities for short-and long-distance communications. The systems is software programmable with a frequency range of 2.0000-29.9999 MHz, in 100-Hz steps and provides for providing embedded automatic Link establishment (ALE), serial tone data modem, text messaging, GPS position reporting and anti-jam (ECCM) functions. System purchased with all required mounts, amplifiers, antennas, power supplies, and accessories.

7. The AN/AAR-57 Common Missile Warning System (CMWS) is an integrated infrared (IR) countermeasures suite utilizing five ultraviolet (UV) sensors to display accurate threat location and dispense decoys/ countermeasures either automatically or under pilot/crew control to defeat incoming missile threats. CMWS is a detection component of the suite of countermeasures designed to increase survivability of current generation combat aircraft and specialized special operations aircraft against the threat posed by infrared guided missiles.

8. The Common Missile Warning System (CMWS) User Data Module (UDM) (NSN 7025-01-647-8526) is a classified, removable Personal Computer Memory Card International Association (PCMCIA) module that is installed in the UDM housing on the CMWS ECU. The UDM contains the Operational Flight Program (OFP), aircraft, threat/countermeasure file library, and mission specific information used in the embedded system.

9. The TALON Forward Looking Infrared Radar (TALON FLIR) is a compact multi-sensor thermal imaging system utilized for personnel recovery. Search and rescue missions are supported with the thermal imaging, daylight camera, and laser rangefinder payloads. Includes Joystick Control Unit (JCU).

10. AN/ARC-220, High Frequency (HF) Radio multifunctional, fully Digital Signal Processing (DSP) high frequency radio for rotary wing applications. Provides embedded Automatic Link Establishment (ALE), serial tone data modem, text messaging, GPS position reporting and anti-jam (ECCM) functions. Embedded ECCM and data modem.

11. EBC-406 (Emergency Locator Transmitter) is loaded with country unique codes (at delivery in country) that aid in the recovery of a down aircraft/personnel with a loud beeping tone and flashing LED. The ELT transmits on 406.028 MHz, the civil 121.5 MHz, and the military 243.0 MHz emergency frequencies.

12. The AN/AVR-2B Laser Warning Receiver detects laser rangefinders, target designators and beam rider laser-aided systems targeting an aircraft or vehicle. The AVR-2B is a detection component of the suite of countermeasures designed to increase survivability of current generation combat aircraft and specialized special operations aircraft against the threat posed by laser designated or guided weapons.

13. The AN/AVS-6 Military Grade Night Vision Goggles are helmet mounted, optoelectronic devices that allows images be produced in levels of light approaching total darkness. The image may be a conversion to visible light of both visible light and near-infrared.

14. The AN/AVS-7 Improved Heads Up Display (IHUD) (Day and Night) is a standard helicopter aviator day and night helmet mounted display system.

The IHUD is an advanced, proven electro-optic system that displays critical aircraft navigation and flight symbology. The IHUD can be used alone during daylight operations, or combined with the AN/AVS-6 goggles during night operation.

15. The M206, a magnesium Teflon flare, provides protection against a wide range of surface to air threats.

16. The highest level of information required to furnish the equipment, training, and data associated with this proposed sale is classified SECRET.

17. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the enclosed Policy Justification. A determination has been made that Lithuania can provide the same degree of protection for the sensitive technology being released as the U.S. Government.

18. All defense articles and services listed in this transmittal have been authorized for release and export to Lithuania.

[FR Doc. 2020-18698 Filed 8-25-20; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Transmittal No. 20-38]

### Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Arms sales notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of an arms sales notification.

**FOR FURTHER INFORMATION CONTACT:** Karma Job at [karma.d.job.civ@mail.mil](mailto:karma.d.job.civ@mail.mil) or (703) 697-8976.

**SUPPLEMENTARY INFORMATION:** This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20-38 with attached Policy Justification and Sensitivity of Technology.

Dated: August 14, 2020.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

BILLING CODE 5001-06-C



**DEFENSE SECURITY COOPERATION AGENCY**  
 201 12<sup>TH</sup> STREET SOUTH, SUITE 101  
 ARLINGTON, VA 22202-5408

July 30, 2020

The Honorable Nancy Pelosi  
 Speaker of the House  
 U.S. House of Representatives  
 H-209, The Capitol  
 Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-38 concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Republic of the Philippines for defense articles and services estimated to cost \$126 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper  
 Lieutenant General, USA  
 Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 20-38

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser*: Republic of the Philippines

(ii) *Total Estimated Value*:

Major Defense Equipment* ..	\$ 2 million
Other .....	\$124 million

TOTAL .....	\$126 million
-------------	---------------

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase*:

*Major Defense Equipment (MDE)*:

One hundred fifty-six (156) M240B 7.62x51mm Machine Guns

*Non-MDE*:

Also included are thirty-six (36) 9M Scout Boats (SB); thirty-six (36) 10M Assault Boats (AB); eighteen (18) 16M Light Support Boats (LSB); thirty-six (36) units of Forward Looking Infrared

(FLIR) 280HD; twenty-four (24) M2A1 .50 caliber machine guns; thirty-six (36) M134D-M, 7.62x51mm, 6-barrel rotary Gatling guns; three hundred ninety-nine (399) NFS-NVG/IR Lasers (AN/PVS-14 and AN/PEQ-15); one hundred two (102) Thermal Imager Scope (handheld); two hundred ten (210) Heavy Thermal Weapon Sights (AN/PAS-13); ninety (90) Harris Falcon III RF-7850M radios; two hundred seventy (270) Harris Falcon III RF-7850S radios; boat spare parts; spare engines and engine components; safety and rescue equipment; training; contractor engineering technical services; engineering technical assistance; transportation cost services, and other related elements of logistics and program support.

(iv) *Military Department*: Navy (PI-P-SCS)

(v) *Prior Related Cases, if any*: 7L-P-LBJ

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid*: None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold*: See Attached Annex

(viii) *Date Report Delivered to Congress*: JULY 30, 2020

\* As defined in Section 47(6) of the Arms Export Control Act.

**POLICY JUSTIFICATION**

*Philippines—Scout, Assault, and Light Support Boats with Armaments and Accessories*

The Government of the Philippines has requested to buy one hundred fifty-six (156) M240B 7.62x51mm machine guns. Also included are thirty-six (36) 9M Scout Boats (SB); thirty-six (36) 10M Assault Boats (AB); eighteen (18) 16M Light Support Boats (LSB); thirty-six (36) units of Forward Looking Infrared (FLIR) 280HD; twenty-four (24) M2A1

.50 caliber machine guns; thirty-six (36) M134D-M, 7.62x51mm, 6-barrel rotary Gatling guns; three hundred ninety-nine (399) NFS-NVG/IR Lasers (AN/PVS-14 and AN/PEQ-15); one hundred two (102) Thermal Imager Scope (handheld); two hundred ten (210) Heavy Thermal Weapon Sights (AN/PAS-13); ninety (90) Harris Falcon III RF-7850M radios; two hundred seventy (270) Harris Falcon III RF-7850S radios; boat spare parts; spare engines and engine components; safety and rescue equipment; training; contractor engineering technical services; engineering technical assistance; transportation cost services, and other related elements of logistics and program support. The estimated cost is \$126 million.

This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a strategic partner that continues to be an important force for political stability, peace, and economic progress in South-East Asia.

The proposed sale will improve the Philippines' capability to meet current and future threats by force multiplying the Army's present ability to operate and control both inland and coastal waterways of southern Philippines. The Philippines will have no difficulty absorbing this equipment and support into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor for the Scout and Assault Boats will be Willard Marine Inc., Anaheim, CA. The principal contractor for the Light Support Boat will be determined through an open competition contract. There are no known offset agreements proposed in connection with this potential sale. Any offset agreement required by Philippines will be defined in negotiations between the purchaser and the contractor(s).

Implementation of this proposed sale will require the assignment of one (1) additional U.S. contractor representative to the Republic of the Philippines for a duration of five (5) years to provide maintenance and logistical support.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 20-38

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. Included are:

a. The M240B 7.62x51mm machine gun is a general purpose, gas-operated, medium machine gun fired from a mount. The M240B machine gun provides protection and is used extensively by infantry, most often in rifle companies, as well as on ground vehicles, watercraft and aircraft.

b. The 9M Scout Boat is an agile vessel. The 9M Scout Boat provides reconnaissance capabilities.

c. The 10M Assault Boat is a high speed patrol vessel. The 10M Assault Boat provides search and seizure capabilities.

d. The 16M Light Support Boat is a lightweight unit support vessel. The 16M Light Support Boat provides extended range for the mission.

e. The Forward Looking Infrared (FLIR) 280HD is an imaging system. The FLIR 280HD is designed to identify and track threats in the day and night.

f. The M2A1 .50 caliber machine gun is an automatic, air-cooled machine gun either mounted or crew transported (over short distances). The M2A1 .50 caliber machine gun provides defensive and offensive capabilities and can be used as an anti-personnel and anti-aircraft weapon.

g. The M134D-M, 7.62x51mm, 6-barrel rotary Gatling gun, is a machine gun. The M134D-M, 7.62x51mm, 6-barrel rotary Gatling guns provides defensive and offensive capabilities.

h. The Night Fighting System-Night Vision Goggle (NFS-NVG)/Infrared Lasers (AN/PVS-14 and AN/PEQ-15). The NFS/NVG (AN/PVS-14) is a multi-functional night vision monocular. The NFS/NVG provides night vision capabilities and can be used as a hand-held pocket scope, helmet-mounted monocular, or a weapon sight when mounted in tandem with an infrared laser aimer. The Advanced Target Pointer/Illuminator/Aiming Laser (AN/PEQ-15) is an infrared laser aimer. The Advanced Target Pointer/Illuminator/Aiming Laser (AN/PEQ-15) provides direct-fire aiming and illumination for nighttime use.

i. The Thermal Imager Scope is a device which creates an image by the target's emitted heat signature and its contrast to its immediate surroundings. The Thermal Imager Scope provides a sharper capability for precision targeting in the absence of illumination.

j. The Heavy Thermal Weapon Sights (AN/PAS-13) is a portable infrared sensor for use on rifles, surveillance missions, and shoulder-launched missiles. The Thermal Weapon Sight provides a capability to acquire targets at long range, night, during the day in

adverse weather conditions and through smoke and dust.

k. The Harris Falcon III RF-7850M Radio is a multiband networking vehicular radio. The Harris Falcon III RF-7850M Radio provides high-speed, long-range tactical communications and is engineered for space-constrained platforms.

l. The Harris Falcon III RF-7850S Radio is an advanced wideband, secure personal radio. The Harris Falcon III RF-7850S Radio provides personal, secure and full communications capabilities (for both wideband and narrowband operation) and meets specific needs of soldier-level communications with multiple talk groups, ad-hoc mesh networking, and multi-hop forwarding.

2. The highest level of classification of defense articles, components, and services included in this potential sale is UNCLASSIFIED.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that the Republic of the Philippines can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the Republic of the Philippines.

[FR Doc. 2020-18788 Filed 8-25-20; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Transmittal No. 20-44]

### Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Arms sales notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of an arms sales notification.

**FOR FURTHER INFORMATION CONTACT:** Karma Job at [karma.d.job.civ@mail.mil](mailto:karma.d.job.civ@mail.mil) or (703) 697-8976.

**SUPPLEMENTARY INFORMATION:** This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164

dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20-44 with attached Policy Justification.

Dated: August 12, 2020.  
**Aaron T. Siegel,**  
*Alternate OSD Federal Register Liaison  
 Officer, Department of Defense.*  
**BILLING CODE 5001-06-P**



**DEFENSE SECURITY COOPERATION AGENCY**  
**201 12<sup>TH</sup> STREET SOUTH, SUITE 101**  
**ARLINGTON, VA 22202-5408**

July 6, 2020

The Honorable Nancy Pelosi  
 Speaker of the House  
 U.S. House of Representatives  
 H-209, The Capitol  
 Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-44 concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Israel for defense articles and services estimated to cost \$3.0 billion. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper  
 Lieutenant General, USA  
 Director

Enclosures:

1. Transmittal
2. Policy Justification

**BILLING CODE 5001-06-C**

Transmittal No. 20-44

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Israel

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	\$ 0
Other .....	\$3.0 billion

TOTAL ..... \$3.0 billion

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

*Major Defense Equipment (MDE):*

None

*Non-MDE includes:*

Approximately 990 million gallons of Petroleum-based products, to include JP-8 Aviation Fuel, Diesel Fuel, and Unleaded Gasoline

(iv) *Military Department:* Army (IS-B-ZMI, IS-B-ZMJ)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* July 6, 2020

\*As defined in Section 47(6) of the Arms Export Control Act.

**POLICY JUSTIFICATION**

*Israel—JP-8 Aviation Fuel, Diesel Fuel, and Unleaded Gasoline*

The Government of Israel has requested to buy approximately 990 million gallons of Petroleum-based products, to include JP-8 Aviation Fuel, Diesel Fuel, and Unleaded Gasoline. The total estimated cost is \$3.0 billion.

The United States is committed to the security of Israel, and it is vital to U.S. national interests to assist Israel to develop and maintain a strong and

ready self-defense capability. This proposed sale is consistent with those objectives.

The proposed sale of the JP-8 aviation fuel will enable Israel to maintain operational aircraft. Diesel fuel and unleaded gasoline will be used for ground vehicles. The proposed sale will improve Israel's ability to meet current and future threats in order to defend its borders.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

U.S. vendors will be selected using a competitive bid process through Defense Logistics Agency Energy for supply source(s). There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional US Government or contractor representatives to Israel.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2020-18699 Filed 8-25-20; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Transmittal No. 20-41]

### Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Arms sales notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of an arms sales notification.

**FOR FURTHER INFORMATION CONTACT:**

Karma Job at [karma.d.job.civ@mail.mil](mailto:karma.d.job.civ@mail.mil) or (703) 697-8976.

**SUPPLEMENTARY INFORMATION:** This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20-41 with attached Policy Justification and Sensitivity of Technology.

Dated: August 17, 2020.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*



**DEFENSE SECURITY COOPERATION AGENCY**  
201 12<sup>TH</sup> STREET SOUTH, SUITE 101  
ARLINGTON, VA 22202-5408

July 6, 2020

The Honorable Nancy Pelosi  
Speaker of the House  
U.S. House of Representatives  
H-209, The Capitol  
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-31 concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Argentina for defense articles and services estimated to cost \$100 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

A handwritten signature in black ink, appearing to be "C. Hooper", is written over the typed name and title.

Charles W. Hooper  
Lieutenant General, USA  
Director

**Enclosures:**

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 20–41

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser*: The Government of Belgium

(ii) *Total Estimated Value*:

Major Defense Equipment * ..	\$25.0 million
Other .....	\$ 8.3 million

TOTAL .....	\$33.3 million
-------------	----------------

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase*:

*Major Defense Equipment (MDE)*:

Twenty-nine (29) All Up Round MK 54 Lightweight Torpedo Mod 0

*Non-MDE*:

Also included are two (2) Fleet Exercise Section conversion kits, torpedo support equipment, training and publications, U.S. Government and contractor engineering, technical, and logistics support services, and other related elements of logistics and program support.

(iv) *Military Department*: Navy (BE-P-LBH)

(v) *Prior Related Cases, if any*: None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid*: None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold*: None

(viii) *Date Report Delivered to Congress*: July 9, 2020

\* As defined in Section 47(6) of the Arms Export Control Act.

#### POLICY JUSTIFICATION

*Belgium—MK 54 Lightweight Torpedoes (LWT)*

The Government of Belgium requests to buy twenty-nine (29) All Up Round MK 54 LWT Mod 0. Also included are two (2) Fleet Exercise Section conversion kits, torpedo support equipment, training and publications, U.S. Government and contractor engineering, technical, and logistics support services, and other related elements of logistics and program support. The total estimated program cost is \$33.3 million.

This proposed sale will support the foreign policy and national security objectives of the United States by improving the security of a NATO Ally

which is an important force for political stability and economic progress in Europe.

The Belgian Navy is phasing out its inventory of MK 46 torpedoes. The MK 54 will give them the ability to engage submarines from its fleet of NH-90 helicopters and the new generation of Multi-Mission Frigates. Belgium will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Raytheon Integrated Defense System, Portsmouth, Rhode Island. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Belgium; however, U.S. Government Engineering and Technical Services may be required on an interim basis for installations and integration.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 20–41

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology*:

1. The MK 54 Torpedo is a conventional torpedo that can be launched from surface ships, helicopters, and fixed wing aircraft. The MK 54 is an upgrade to the MK 46 Torpedo, which is currently in-service in Belgium. The MK 54 replaces MK 46's sonar and guidance and control systems with modern technology. The new guidance and control system uses a mixture of commercial-off-the-shelf and custom-built electronics. The warhead, fuel tank and propulsion system from the MK 46 torpedo are re-used in the MK 54 configuration with minor modifications. There is no sensitive technology in the MK 54 or its support and test equipment. Belgium has not requested nor will it be provided with the source code for the MK 54 operational software. The highest

classification of items to be transferred by this possible sale is SECRET.

2. If a technologically advanced adversary were to obtain knowledge of the hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that the Government of Belgium can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

4. All defense articles and services listed in this transmittal have been authorized for release and export to Belgium.

[FR Doc. 2020–18791 Filed 8–25–20; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Transmittal No. 20–24]

#### Arms Sales Notification

**AGENCY**: Defense Security Cooperation Agency, Department of Defense.

**ACTION**: Arms sales notice.

**SUMMARY**: The Department of Defense is publishing the unclassified text of an arms sales notification.

#### FOR FURTHER INFORMATION CONTACT:

Karma Job at [karma.d.job.civ@mail.mil](mailto:karma.d.job.civ@mail.mil) or (703) 697–8976.

**SUPPLEMENTARY INFORMATION**: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20–24 with attached Policy Justification and Sensitivity of Technology.

Dated: August 17, 2020.

**Aaron T. Siegel,**

Alternate OSD Federal Register Liaison Officer, Department of Defense.



DEFENSE SECURITY COOPERATION AGENCY  
201 12<sup>TH</sup> STREET SOUTH, SUITE 101  
ARLINGTON, VA 22202-5408

July 9, 2020

The Honorable Nancy Pelosi  
Speaker of the House  
U.S. House of Representatives  
H-209, The Capitol  
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-24 concerning the Army's proposed Letter(s) of Offer and Acceptance to the Taipei Economic and Cultural Representative Office in the United States (TECRO) for defense articles and services estimated to cost \$620 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper  
Lieutenant General, USA  
Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 20-24

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Taipei Economic and Cultural Representative Office in the United States (TECRO)

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	\$ 0 million
Other .....	\$620 million
<b>TOTAL .....</b>	<b>\$620 million</b>

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

*Major Defense Equipment (MDE):*  
None

*Non-MDE:*

Recertification of Patriot Advanced Capability-3 (PAC-3) missiles, including the replacement of expiring limited life components and certification testing in order to support an operational life of

thirty years; test and repair of PAC-3 missiles, including stockpile reliability testing and field returns; repair and return of classified and unclassified PAC-3 missile items and ground support equipment (GSE) component level parts; replenishment of classified and unclassified missile spares and GSE spares, as well as a seeker spares pool to improve the turnaround time of the repair and recertification efforts; air transportation services for missile processing; U.S. Government and contractor technical and logistics support; and other related elements of logistics support.

(iv) *Military Department:* Army (TW-B-ZDC)

(v) *Prior Related Cases, if any:* TW-B-YYV

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or*

*Defense Services Proposed to be Sold:*  
See Attached Annex

(viii) *Date Report Delivered to Congress:* **July 9, 2020**

\* As defined in Section 47(6) of the Arms Export Control Act.

**POLICY JUSTIFICATION**

*Taipei Economic and Cultural Representative Office in the United States (TECRO)—Repair and Recertification of Patriot Advanced Capability-3 Missiles*

TECRO has requested to buy Recertification of Patriot Advanced Capability-3 (PAC-3) missiles, including the replacement of expiring Limited Life Components (LLCs) and certification testing in order to support an operational life of thirty years; Test and repair of PAC-3 missiles, including Stockpile Reliability Testing (SRT) and Field Returns; Repair and Return (R&R) of classified and unclassified PAC-3



missile items and Ground Support Equipment (GSE) component level parts; replenishment of classified and unclassified missile spares and GSE spares, as well as a seeker spares pool to improve the turnaround time of the repair and recertification efforts; air transportation services for missile processing; U.S. Government and contractor technical and logistics support; and other related elements of logistics support. The total estimated cost is \$620 million.

This proposed sale is consistent with U.S. law and policy as expressed in Public Law 96-8.

This proposed sale serves U.S. national, economic, and security interests by supporting the recipient's continuing efforts to modernize its armed forces and to maintain a credible defensive capability. The proposed sale will help improve the security of the recipient and assist in maintaining political stability, military balance, and economic progress in the region.

This proposed sale will help sustain the recipient's missile density and ensure readiness for air operations. The recipient will use this capability as a deterrent to regional threats and to strengthen homeland defense. The recipient will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be Lockheed Martin, Camden, AZ. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or

contractor representatives to the prospective purchasing country.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 20-24

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology*:

1. The Patriot Air Defense System contains classified SECRET components and critical/sensitive technology. The Patriot Advanced Capability-3 (PAC-3) Missile Four Pack is classified CONFIDENTIAL. With the incorporation of the PAC-3 missile, the Patriot system will continue to hold a significant technological lead over other surface-to-air missile systems in the world.

2. The PAC-3 Missile sensitive/critical technology is in the area of design and production know-how and primarily inherent in the design, development, and/or manufacturing data related to certain components. Information on system performance capabilities and effectiveness, select software documentation, and test data are classified up to SECRET.

3. If a technologically advanced adversary were to obtain knowledge of hardware and software elements, the information could be used to develop countermeasures or equivalent systems, which might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that the recipient can provide substantially the same degree of

protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the recipient.

[FR Doc. 2020-18784 Filed 8-25-20; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Transmittal No. 20-45]

### Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Arms sales notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of an arms sales notification.

**FOR FURTHER INFORMATION CONTACT:** Karma Job at [karma.d.job.civ@mail.mil](mailto:karma.d.job.civ@mail.mil) or (703) 697-8976.

**SUPPLEMENTARY INFORMATION:** This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20-45 with attached Policy Justification and Sensitivity of Technology.

Dated: August 14, 2020.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

BILLING CODE 5001-06-P



**DEFENSE SECURITY COOPERATION AGENCY**  
**201 12<sup>TH</sup> STREET SOUTH, SUITE 101**  
**ARLINGTON, VA 22202-5408**

July 9, 2020

The Honorable Nancy Pelosi  
 Speaker of the House  
 U.S. House of Representatives  
 H-209, The Capitol  
 Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-45 concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Germany for defense articles and services estimated to cost \$130 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper  
 Lieutenant General, USA  
 Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

**BILLING CODE 5001-06-C**

Transmittal No. 20-45

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Germany

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	\$ 90 million
Other .....	\$ 40 million

TOTAL ..... \$130 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

*Major Defense Equipment (MDE):*  
 Sixty-four (64) MK 54 All Up Round Lightweight Torpedoes  
 Ten (10) MK 54 Conversion Kits to be used with fleet exercise sections as MK 54 Exercise Torpedoes  
*Non-MDE:*

Also included are torpedo containers; Recoverable Exercise Torpedoes (REXTORP) with containers; Fleet Exercise Section (FES) and fuel tanks to be used with MK 54 conversion kits (procured as MDE); air launch accessories for fixed wing; torpedo spare parts; training, publications, support and test equipment; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Navy (GY-P-ALC)

(v) *Prior Related Cases, if any:* None  
 (vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* July 9, 2020

\* As defined in Section 47(6) of the Arms Export Control Act.

**POLICY JUSTIFICATION**

*Germany—MK 54 Lightweight Torpedoes*

The Government of Germany has requested to buy sixty-four (64) MK 54 All Up Round Lightweight torpedoes and ten (10) MK 54 Conversion Kits to be used with fleet exercise sections as MK 54 Exercise torpedoes. Also included are torpedo containers; Recoverable Exercise Torpedoes (REXTORP) with containers; Fleet Exercise Section (FES) and fuel tanks to be used with MK 54 conversion kits (procured as MDE); air launch accessories for fixed wing; torpedo spare parts; training, publications, support and test equipment; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and

program support. The total estimated value is \$130 million.

This proposed sale will support the foreign policy and national security of the United States by improving the security of a NATO Ally which is an important force for political and economic stability in Europe.

The proposed sale will improve Germany's capability to meet current and future threats by upgrading the Anti-Submarine Warfare capabilities on Germany's P-3C aircraft. Germany will have no difficulty absorbing these weapons into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Raytheon Integrated Defense System, Portsmouth, RI. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require long-term assignment of any additional U.S. Government or contractor representatives to Germany; however, U.S. Government Engineering and Technical Services may be required on an interim basis for training and technical assistance.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 20-45

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The MK 54 Torpedo is a conventional torpedo that can be launched from surface ships and rotary- and fixed-wing aircraft. The MK 54 is an upgrade from the MK 46 Torpedo. The upgrade to the MK 54 entails replacement of the torpedo's sonar and guidance and control systems with modern technology. The new guidance and control system uses a mixture of commercial-off-the-shelf and custom-built electronics. The warhead, fuel tank, and propulsion system from the MK 46 torpedo are re-used in the MK 54 configuration with minor modifications.

2. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware or software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or

be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Germany can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to Germany.

[FR Doc. 2020-18703 Filed 8-25-20; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF EDUCATION

[Docket No.: ED-2020-SCC-0138]

### Agency Information Collection Activities; Comment Request; Study of District and School Uses of Federal Education Funds

**AGENCY:** Institute for Education Sciences (IES), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision to an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before October 26, 2020.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2020-SCC-0138. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the [www.regulations.gov](http://www.regulations.gov) site is not available to the public for any reason, ED will temporarily accept comments at [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov). Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW,

LBJ, Room 6W208B, Washington, DC 20202-8240.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Stephanie Stulich, 202-245-6468.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

**Title of Collection:** Study of District and School Uses of Federal Education Funds.

**OMB Control Number:** 1850-0951.

**Type of Review:** A revision of an existing information collection.

**Respondents/Affected Public:** State, Local or Tribal Governments.

**Total Estimated Number of Annual Responses:** 919.

**Total Estimated Number of Annual Burden Hours:** 7,370.

**Abstract:** The Study of District and School Uses of Federal Education Funds will examine targeting and resource allocation for five major federal education programs: Part A of Titles I, II, III, and IV of the Elementary and Secondary Education Act (ESEA) and Title I, Part B of the Individuals with Disabilities Education Act (IDEA), as well as funds provided to school districts through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The study will collect, from a nationally representative sample

of 400 school districts, detailed data on revenues, expenditures, and personnel for the federal programs covered in this study. In addition, the study will collect data on suballocations of those federal funds to districts and schools to examine how the distribution of funds varies in relation to program goals and student needs and will conduct telephone interviews in nine districts to explore how districts use IDEA funds in conjunction with other federal, state, and local funds to meet the needs of students with disabilities.

Dated: August 20, 2020.

**Stephanie Valentine,**

*PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.*

[FR Doc. 2020–18697 Filed 8–25–20; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

### President's Advisory Commission on Hispanic Prosperity

**AGENCY:** President's Advisory Commission on Hispanic Prosperity, Office of Communications and Outreach, U.S. Department of Education.

**ACTION:** Announcement of an open meeting.

**SUMMARY:** This notice sets forth the agenda, time, and instructions for public participation in the August 31, 2020 virtual meeting of the President's Advisory Commission on Hispanic Prosperity (Commission) and provides information to members of the public regarding the meeting. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act (FACA). 41 CFR 102–3.150(b) provides “In exceptional circumstances, the agency . . . may give less than 15 calendar days notice, provided that the reasons for doing so are included in the advisory committee meeting notice published in the **Federal Register**.” Consequently, this notice is being published less than 15 days from the meeting date due to the exceptional and immediate need to establish a strategic plan for the Commission and to identify items and measures for action in light of the declared national emergency related to the COVID–19 pandemic and the significant changes to educational delivery and massive economic dislocation it has caused the Hispanic American community.

**DATES:** The virtual meeting of the Commission will be held on August 31,

2020, from 3:00 p.m. to 5:00 p.m. Eastern Standard Time.

**FOR FURTHER INFORMATION CONTACT:** Emmanuel Caudillo, Designated Federal Official, President's Advisory Commission on Hispanic Prosperity, U.S. Department of Education, 400 Maryland Avenue SW, Room 7E324, Washington, DC 20202, telephone: (202) 453–5529, or email: [Emmanuel.Caudillo@ed.gov](mailto:Emmanuel.Caudillo@ed.gov).

**SUPPLEMENTARY INFORMATION:** The Commission's Statutory Authority and Function: The Commission is established under Executive Order 13935 (July 9, 2020). The Commission's duties are to advise the President and the Secretary on educational and economic opportunities for the Hispanic American community in the following areas: (i) Promoting pathways to in-demand jobs for Hispanic American students, including apprenticeships, internships, fellowships, mentorships, and work-based learning initiatives; (ii) strengthening HSIs, as defined by the Higher Education Act of 1965, as amended, and increasing the participation of the Hispanic American community, Hispanic-serving school districts, and HSIs in the programs of the Department and other agencies; (iii) promoting local-based and national private-public partnerships to promote high-quality education, training, and economic opportunities for Hispanic Americans; (iv) promoting awareness of educational opportunities for Hispanic American students, including options to enhance school choice, personalized learning, family engagement, and civics education; (v) promoting public awareness of the educational and training challenges that Hispanic Americans face and the causes of these challenges and; (vi) monitoring changes in Hispanic Americans' access to educational and economic opportunities.

#### Meeting Agenda

The agenda for the Commission meeting is the creation of strategic plan to meet its duties under its charter.

#### Instructions for Accessing the Meeting

Members of the public may submit written statements regarding the work of the Commission via [Emmanuel.Caudillo@ed.gov](mailto:Emmanuel.Caudillo@ed.gov) (please use the subject line “August 2020 Advisory Commission Meeting Public Comment”), or by letter to Emmanuel Caudillo, White House Hispanic Prosperity Initiative, 400 Maryland Avenue SW, 7E324, Washington, DC 20202, by Friday, August 28, 2020.

Members of the public may register to obtain dial-in instructions at the below

link. Due to technical constraints, registration is limited to 200 participants and will be available on a first-come, first-served basis. <https://ems9.intellor.com/?do=register&t=1&p=901842>.

**Access to Records of the Meeting:** The Department will post the official report of the meeting on the Commission's website within 90 days after the meeting. In addition, pursuant to the FACA, the public may request to inspect records of the meeting at 400 Maryland Avenue SW, Washington, DC, by emailing [Emmanuel.Caudillo@ed.gov](mailto:Emmanuel.Caudillo@ed.gov) or by phoning (202) 453–5529 to schedule an appointment.

**Reasonable Accommodations:** The meeting platform and access code are accessible to individuals with disabilities. If you will need an auxiliary aid or service for the meeting (e.g., interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice not later than Wednesday, August 26, 2020. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

**Electronic Access to This Document:** The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys). At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You also may access documents of the Department published in the **Federal Register** by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**Authority:** Executive Order 13935 (July 9, 2020).

**Elizabeth Hill,**

*Delegated to perform the duties of the Assistant Secretary, Communications Director, Office of Communications and Outreach.*

[FR Doc. 2020–18733 Filed 8–25–20; 8:45 am]

**BILLING CODE 4000–01–P**

**ELECTION ASSISTANCE COMMISSION****Progress Report; Standardized Format To Be Used for Both Interim and Final Progress Reporting**

**AGENCY:** Election Assistance Commission.

**ACTION:** Notice of Request for public comment on standardized EAC Progress Report (EAC-PR) format to be used for both interim and final progress reporting for all EAC grants and submission to OMB of proposed collection of information.

**DATES:** Comments should be submitted by 5 p.m. on Wednesday, September 23rd, 2020.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** To view the proposed EAC-PR format and instrument, see: <https://www.eac.gov/>

*payments-and-grants/reporting*. For information on the EAC-PR, contact Kinza Ghaznavi, Office of Grants, Election Assistance Commission, 202–400–1086, [HAVAFunding@eac.gov](mailto:HAVAFunding@eac.gov). All requests and submissions should be identified by the title of the information collection.

**SUMMARY:** This proposed information collection was previously published in the **Federal Register** on June 17, 2020 and allowed 60 days for public comment. In compliance with the Paperwork Reduction Act (PRA) of 1995, EAC has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. The purpose of this notice is to allow an additional 30 days for public comment from all interested individuals and organizations.

**SUPPLEMENTARY INFORMATION:** The EAC Office of Grants Management (EAC/OGM) is responsible for distributing, monitoring and providing technical assistance to states and grantees on the use of federal funds. EAC/OGM also reports on how the funds are spent to Congress, negotiates indirect cost rates

with grantees, and resolves audit findings on the use of HAVA funds.

We are soliciting public comments to permit the EAC to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Office of Grants Management.
- Evaluate the accuracy of our estimate of burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

OMB approval is requested for 3 years.

**Respondents:** All EAC grantees and state governments.

**ANNUAL BURDEN ESTIMATES**

EAC grant	Instrument	Total number of respondents	Total number of responses per year	Average burden hours per response	Annual burden hours
251 .....	EAC-PNR .....	43	2	1	86
101 .....	EAC-PNR .....	29	2	1	58
Election Security .....	EAC-PNR .....	56	2	1	112
CARES .....	EAC-PNR .....	56	*3	1	168
Total .....	.....	.....	.....	.....	424

\*The total max possible number of reports per respondent is six, however, many grantees will be able to meet the match before the 2-year period due to the activities being restricted to the 2020 elections.

**Amanda Joiner,**

*Associate Counsel, U.S. Election Assistance Commission.*

[FR Doc. 2020–18622 Filed 8–25–20; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF ENERGY****Proposed Agency Information Collection: Contracting**

**AGENCY:** Bonneville Power Administration, Department of Energy.

**ACTION:** Notice and request for OMB review and comment.

**SUMMARY:** Bonneville Power Administration (BPA) has submitted to the Office of Management and Budget (OMB) for clearance, a proposal for collection of information pursuant to

the Paperwork Reduction Act of 1995. The proposed collection will allow BPA to exercise management and oversight awarding of contracts in a cost-effective manner, and for safeguarding the interests of Bonneville in its contractual relationships. In order to perform these responsibilities, Contracting officers require information collections from prospective or current vendors regarding how they are fulfilling their contractual obligations. We have one correction to make on the annual estimated number of burden hours.

**DATES:** Comments regarding this proposed information collection must be received on or before September 25, 2020. If you anticipate any difficulties in submitting your comments by the deadline, contact the OMB Desk Officer by email or mail.

**ADDRESSES:** Written comments should be sent to OMB Desk Officer: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW, Washington, DC 20503. *Oira submission@omb.eop.gov*.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Attn: Laura McCarthy, CGI-7, P.O. Box 3621, Portland, OR 97208–3621, or by fax Attn: Laura McCarthy, CGI-7 at 503–230–4619, or by email at [ljmccarthy@bpa.gov](mailto:ljmccarthy@bpa.gov).

**SUPPLEMENTARY INFORMATION:** This information collection request contains:

- (1) OMB No.: New;
- (2) Information Collection Request Title: Contracting;
- (3) Type of Request: Existing collections

without OMB Control Number; (4) *Purpose*: This information collection is associated with BPA's management and oversight of contracting requirements in fulfillment of BPA vendor contracts. Non-employees, contractors, and the general public complete the following forms: BPA F 4220.04—Subcontracting Report for Individual Contracts; BPA F 4220.51—Amendment of Solicitation/Modification of Contract/Order; BPA F 4220.52—Solicitation, Offer, and Award for Construction; and BPA F 4220.55—Solicitation/Contract/Order for Services and/or Items; (5) *Estimated Number of Respondents*: 3,370; (6) *Annual Estimated Number of Respondents*: 3,370; (7) *Annual Estimated Number of Burden Hours*: 543; and (8) *Annual Estimated Reporting and Recordkeeping Cost Burden*: 0. We have corrected the number of burden hours to 543 from the original 108 hours. We were incorrect with the estimated burden response for form BPA F 4220.51—Amendment of Solicitation/Modification of Contract/Order.

*Statutory Authority*: The Bonneville Project Act codified at 16 U.S.C. 832; the Federal Columbia River Transmission System Act of 1974; and the Pacific Northwest Electric Power Planning and Conservation Act.

#### Signing Authority

This document of the Department of Energy, was signed on June 9, 2020, by Candice D. Palen, Information Collection Clearance Manager, Bonneville Power Administration, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE **Federal Register** Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 20, 2020.

**Treena V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

[FR Doc. 2020-18682 Filed 8-25-20; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RD20-9-000]

#### Commission Information Collection Activities (FERC-725R); Comment Request; Revision

**AGENCY**: Federal Energy Regulatory Commission, Department of Energy.

**ACTION**: Notice of revision of information collection and request for comments.

**SUMMARY**: In compliance with the Paperwork Reduction Act, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on revisions of the information collection FERC-725R (Mandatory Reliability Standards for the Bulk-Power System: BAL Reliability Standards), and will be submitting the information collection to the Office of Management and Budget (OMB) for review.

**DATES**: Comments on the collection of information are due October 26, 2020.

**ADDRESSES**: Comments should be submitted to the Commission, in Docket No. RD20-9-000, by one of the following methods:

- *eFiling at Commission's Website*: <http://www.ferc.gov/docs-filing/efiling.asp>;
- *U.S. Postal Service Mail*: Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426; or
- *Effective 7/1/2020*, delivery of filings other than by eFiling or the U.S. Postal Service should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

*Instructions*: All submissions must be formatted and filed in accordance with submission guidelines at <http://www.ferc.gov>. For user assistance, contact FERC Online Support by email at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or by phone at: (866) 208-3676 (toll-free).

*Docket*: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <http://www.ferc.gov/docs-filing/docs-filing.asp>.

#### FOR FURTHER INFORMATION CONTACT:

Ellen Brown may be reached by email at [DataClearance@FERC.gov](mailto:DataClearance@FERC.gov), and telephone at (202) 502-8663.

#### SUPPLEMENTARY INFORMATION:

*Title*: FERC-725R, Mandatory Reliability Standards for the Bulk-Power System: BAL Reliability Standards.

*OMB Control No.*: 1902-0268.

*Type of Request*: Revisions to FERC-725R information collection requirements, as discussed in Docket No. RD20-9-000.

*Abstract*: Reliability Standard BAL-003-2 (Frequency Response and Frequency Bias Setting) will enhance reliability and improve upon the currently effective version of the Standard by refining and clarifying the process and methods for calculating the amount of Frequency Response that must be provided in a given operating year to support the reliable operation of the Bulk Power System.

On August 8, 2005, Congress enacted into law the Electricity Modernization Act of 2005, which is Title XII, Subtitle A, of the Energy Policy Act of 2005 (EPAc 2005).<sup>1</sup> EPAc 2005 added a new section 215 to the Federal Power Act (FPA), which required a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, any Reliability Standard may be enforced by the ERO subject to Commission oversight, or the Commission may independently enforce Reliability Standards.<sup>2</sup>

On February 3, 2006, the Commission issued Order No. 672, implementing section 215 of the FPA.<sup>3</sup> Pursuant to Order No. 672, the Commission certified one organization, North American Electric Reliability Corporation (NERC), as the ERO.<sup>4</sup> The Reliability Standards developed by the ERO and approved by the Commission apply to users, owners and operators of the Bulk-Power System as set forth in each Reliability Standard.

On December 19, 2019, NERC submitted for approval proposed Reliability Standard BAL-003-2, as well as a proposed implementation plan, Violation Risk Factors, and Violation Severity Levels. The revisions in proposed Reliability Standard BAL-003-2 are concentrated in Attachment A of the revised Standard, "BAL-003-2 Frequency Response and Frequency

<sup>1</sup> Energy Policy Act of 2005, Public Law 109-58, Title XII, Subtitle A, 119 Stat. 594, 941 (codified at 16 U.S.C. 824o).

<sup>2</sup> 16 U.S.C. 824o(e)(3).

<sup>3</sup> Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards, Order No. 672, FERC Stats. & Regs. ¶ 31,204, order on reh'g, Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006).

<sup>4</sup> North American Electric Reliability Corp., 116 FERC ¶ 61,062, order on reh'g and compliance, 117 FERC ¶ 61,126 (2006), order on compliance, 118 FERC ¶ 61,190, order on reh'g, 119 FERC ¶ 61,046 (2007), *aff'd sub nom. Alcoa Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

Bias Setting Standard Supporting Document,” referenced in Requirements R1 and R2. Revisions are also proposed for FRS (Frequency Response Survey) Form 1, referenced in Requirement R4 and Attachment A of the revised Standard; and for the Procedure document, referenced in Attachment A of the revised Standard.

NERC’s filed petition was noticed on May 28, 2020, with interventions, comments and protests due on or before June 29, 2020. No interventions or comments were received. Reliability Standard BAL–003–2 was approved by FERC on 7/15/2020 in a Delegated Letter Order (DLO).<sup>5</sup>

*Types of Respondents:* Balancing authorities and a Frequency Response Sharing Group (FRSG).

*Estimate of Annual Burden:*<sup>6</sup> The estimated burdens of Reliability Standard BAL–003–2 will be the same as the estimated burdens of the currently effective Reliability Standard. The estimated burden and cost estimates shown below are based on the collection of certain information to establish the Interconnection Frequency Response Obligation and the Frequency

Bias Setting for each balancing authority.

Balancing authorities and the FRSG report their previous-year Frequency Response Measure and Frequency Bias Setting to NERC, and revised Frequency Bias Settings are based on data from events the balancing authorities and FRSG report on FRS Form 1, as revised by RD20–9–000. The information provided on the FRS Form 1 is based on events which qualify for analyses, and NERC states that it will identify between 20 to 35 events in each Interconnection for calculating the Frequency Response Measure and Frequency Bias Setting. FRS Form 1 will automatically calculate the balancing authority’s frequency response measure (FRM) for the past 12 months as the median of the Single Event Frequency Response Data (SEFRD) values.<sup>7</sup> Allotting 8 hours for balancing authorities and the FRSG to compile the information on candidate events,<sup>8</sup> multiplied by 28 events per balancing authority per year yields 224 hours per year per balancing authority as the regulatory burden for compliance.<sup>9</sup> Our estimates are based on the NERC Compliance Registry as of

July 17, 2020, which indicates that there are 97 registered balancing authorities and 1 frequency response sharing group.<sup>10</sup>

In order to comply with Reliability Standard BAL–003–2, the balancing authority will be required to retain data or evidence to show compliance with Requirements R1, R2, R3 and R4 and Measures M1, M2, M3 and M4 for the current year plus the previous three calendar years unless directed by its Compliance Enforcement Authority to retain specific evidence for a longer period of time as part of an investigation. The frequency response sharing group will be required to retain data or evidence to show compliance with Requirement R1 and Measure M1 for the current year plus the previous three calendar years, unless directed by its Compliance Enforcement Authority to retain specific evidence for a longer period of time as part of an investigation.

Estimates for the additional average annual burden and cost<sup>11</sup> due to Docket No. RD20–9–000 follow. These estimates are the same as for the currently effective Standard.

#### FERC–725R, MODIFICATIONS DUE TO DOCKET NO. RD20–9

[& Bal–003–2 (Frequency response and frequency bias setting)]

Function	Number of respondents	Number of annual responses per respondent	Total number of annual responses	Average burden hours & cost (\$) per response	Total annual burden hours & total annual cost (\$)
	(1)	(2)	(1) × (2) = (3)	(4)	(3) × (4) = (5)
BA & FRSG Annual Reporting (ongoing) <sup>12</sup>	98	28	2,744	8 hrs.; \$561.52 .....	21,952 hrs.; \$1,540,810.88.
Evidence Retention (ongoing) <sup>13</sup> .....	98	1	98	2 hr.; \$82.06 .....	196 hrs.; \$8,041.88.
Total .....	.....	.....	.....	.....	22,148 hrs; \$1,548,852.76.

*Comments:* Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency’s estimate of the burden and cost of the collection of information, including the validity of

the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: August 20, 2020.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2020–18735 Filed 8–25–20; 8:45 am]

**BILLING CODE 6717–01–P**

<sup>5</sup> The DLO is posted in eLibrary at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=15585069>.

<sup>6</sup> Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. See 5 CFR 1320 for additional information on the definition of information collection burden.

<sup>7</sup> NERC Petition, Exh. A1 at 11.

<sup>8</sup> The information is automatically generated from computer data bases. However, time is allotted to compile, verify, and review the information.

<sup>9</sup> Assuming an average of between 20 and 35 events per year.

<sup>10</sup> NERC Compliance Registry (July 17, 2020), available at [https://www.nerc.com/pa/comp/Registration%20and%20Certification%20DL/NERC\\_Compliance\\_Registry\\_Matrix\\_Excel.xlsx](https://www.nerc.com/pa/comp/Registration%20and%20Certification%20DL/NERC_Compliance_Registry_Matrix_Excel.xlsx).

<sup>11</sup> The hourly cost estimates are based on wage data from the Bureau of Labor Statistics for May 2019 (at [https://www.bls.gov/oes/current/naics2\\_22.htm](https://www.bls.gov/oes/current/naics2_22.htm)) and benefits data for Dec. 2019 (issued March 2020, at <https://www.bls.gov/news.release/ecec.nr0.htm>). The hourly costs (for wages and benefits) for reporting are: Electrical Engineer

(Occupation code 17–2071), \$70.19. The hourly costs (for wages and benefits) for evidence retention are: Information and Record Clerk (Occupation code 43–4199), \$41.03.

<sup>12</sup> The average hourly cost (for wages plus benefits) is \$70.19 for an Electrical Engineer.

<sup>13</sup> The average hourly cost (for wages plus benefits) is \$41.03 for an Information and Record Clerk.



## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

[Docket Nos. CP10–22–000; CP16–18–000]

## Magnum Gas Storage, LLC; Notice of Request for Extension of Time

Take notice that on August 17, 2020, Magnum Gas Storage, LLC (Magnum) requested that the Federal Energy Regulatory Commission (Commission) grant a four- and one-half-year extension of time, until May 17, 2025, to construct and place into service the Magnum Gas Storage Project facilities (Facilities) which were originally authorized by the Commission on March 17, 2011 (Certificate Order) <sup>1</sup> and subsequently amended by the Commission on November 17, 2016 (Amendment Order). <sup>2</sup> The Amendment Order required Magnum to construct and place the facilities in service by November 17, 2020. On April 23, 2020 the Commission issued an Order Vacating Certificate Authorization in Part which vacated certificate authorization for two natural gas storage caverns, one brine disposal pond, and other associated facilities. <sup>3</sup> Currently, the certificated facilities consist of two natural gas storage caverns and associated wells; a 61.6-mile-long, 36-inch-diameter natural gas pipeline header; gas compression and dehydration facilities; one brine evaporation pond and associated water supply and pumping facilities and various other above and below ground piping, control and communications equipment.

Magnum has experienced delays in initiating construction of the Facilities due to delays in permitting of the related state jurisdictional facilities, changes in the overall project scope and changing market conditions. As a result, construction of Magnum's facilities has not yet begun. In its August 17, 2020 request, Magnum explains that it is continuing to diligently develop the Magnum Gas Storage Project and has secured the necessary permits for construction and has secured substantial land, mineral and water rights associated with construction of the Facilities. Magnum further explains that its Facilities are directly adjacent to the site of the Intermountain Power Project (IPP) which is converting its electric power plant from coal to natural gas and the Advanced Clean Energy

Storage (ACES) Project which is developing renewable energy storage using hydrogen, compressed air, large-scale flow batteries and solid oxide fuel cells, which will require the use of natural gas in the conversion process for the foreseeable future. Magnum states that it is uniquely positioned to provide delivery and storage of natural gas in the vicinity of the ACES and IPP Projects.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on Magnum's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). <sup>4</sup>

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for Natural Gas Act facilities when such requests are contested before order issuance. For those extension requests that are contested, <sup>5</sup> the Commission will aim to issue an order acting on the request within 45 days. <sup>6</sup> The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension. <sup>7</sup> The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act. <sup>8</sup> At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their

issuance. <sup>9</sup> The OEP Director, or his or her designee, will act on all of those extension requests that are uncontested.

In addition to publishing the full text of this document in the **Federal Register**, The Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and three copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

*Comment Date:* 5:00 p.m. Eastern Time on September 4, 2020.

Dated: August 20, 2020.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

[FR Doc. 2020–18730 Filed 8–25–20; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

[Docket No. AD20–11–000]

## Extension of Non-Statutory Deadlines; Supplemental Notice Waiving Regulations

On April 2, 2020, the Secretary of the Commission (Secretary) issued a notice granting, among other things, waiver through May 1, 2020 of the Commission's regulations that govern the form of filings submitted to the Commission to the extent entities are unable to meet those requirements due to the emergency conditions caused by Novel Coronavirus Disease (COVID–19). On May 8, 2020, the Secretary waived through September 1, 2020, the

<sup>9</sup> *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

<sup>1</sup> *Magnum Gas Storage, LLC*, 134 FERC ¶ 61,197 (2011).

<sup>2</sup> *Magnum Gas Storage, LLC*, 157 FERC ¶ 61,114 (2016).

<sup>3</sup> *Magnum Gas Storage, LLC*, 171 FERC ¶ 61,069 (2020).

<sup>4</sup> Only motions to intervene from entities that were party to the underlying proceeding will be accepted. *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 39 (2020).

<sup>5</sup> Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1) (2019).

<sup>6</sup> *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

<sup>7</sup> *Id.* at P 40.

<sup>8</sup> Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

Commission's regulations that require that filings with the Commission be notarized or supported by sworn declarations.

Given the ongoing emergency conditions caused by COVID-19, there is good cause to waive through and including January 29, 2021,<sup>1</sup> the Commission's regulations that require that filings with the Commission be notarized or supported by sworn declarations.<sup>2</sup>

Dated: August 20, 2020.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2020-18736 Filed 8-25-20; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP20-508-000]

#### Cimarron River Pipeline, LLC, Ladder Creek LLC; Notice of Application

Take notice that on August 7, 2020, Cimarron River Pipeline, LLC (Cimarron), 370 17th Street, Suite 2500, Denver, Colorado 80202, and Ladder Creek LLC (Ladder Creek), 41707 County Road P, Cheyenne Wells, Colorado 80810 (jointly, the Applicants), filed in Docket No. CP20-508-000, an application pursuant to section 7(b) of the Natural Gas Act (NGA) requesting authorization for its proposed Texas Pipeline Abandonment Project (Project). Specifically, Cimarron proposes to: (1) Abandon the Texas Pipeline system, which is an independent, noncontiguous portion of Cimarron's interstate pipeline operations, by transfer to Ladder Creek; (2) find that, upon transfer, the bulk of the Texas Pipeline System will be performing non-jurisdictional natural gas gathering activities; and (3) issue a certificate of public convenience and necessity to Ladder Creek pursuant to NGA section 7(c) to own, operate, and maintain the Ladder Creek Residue Line located near the Colorado-Kansas border that delivers natural gas processed at the Ladder Creek Processing Plant to

Colorado Interstate Gas Company, L.L.C. (CIG). The Applicants also request that the Commission determine that, in light of the fact that Ladder Creek will operate the Ladder Creek Residue Line for the sole purpose of transporting gas owned by Ladder Creek to CIG, Ladder Creek qualifies for waivers of those aspects of the Commission's interstate gas pipeline regulatory program that have routinely been afforded to jurisdictional plant residue lines that do not carry third-party gas.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Any questions concerning this application may be directed to Douglas F. John, Counsel for Ladder Creek, John & Hengerer LLP, 1629 K Street NW, Suite 402, Washington, DC 20006, by phone (202) 429-8801; and Daniel P. Archuleta, Counsel for Cimarron, Troutman Pepper Hamilton Sander LLP, 401 9th Street NW, Suite 1000, Washington, DC 20004, by phone (202) 274-2926.

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations

within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit five copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

As of the February 27, 2018 date of the Commission's order in Docket No. CP16-4-001, the Commission will apply its revised practice concerning

<sup>1</sup> See also *Temporary Action to Facilitate Social Distancing*, 172 FERC ¶ 61,151 (2020) (waiving notarization requirements through January 29, 2021, contained in any tariff, rate schedule, service agreement, or contract subject to the Commission's jurisdiction under the Federal Power Act, the Natural Gas Act, or the Interstate Commerce Act).

<sup>2</sup> For example, Commission regulations require certain filings with the Commission be supported by a sworn declaration, and we recognize that steps an entity has taken to address the coronavirus may prevent the filing from containing such a declaration. See, e.g., 18 CFR 45.7 (2019).

out-of-time motions to intervene in any new NGA section 3 or section 7 proceeding.<sup>1</sup> Persons desiring to become a party to a certificate proceeding are to intervene in a timely manner. If seeking to intervene out-of-time, the movant is required to “show good cause why the time limitation should be waived,” and should provide justification by reference to factors set forth in Rule 214(d)(1) of the Commission’s Rules and Regulations.<sup>2</sup>

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the “eFiling” link at <http://www.ferc.gov>. Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

*Comment Date:* 5:00 p.m. Eastern Standard Time on September 10, 2020.

Dated: August 20, 2020.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. 2020–18734 Filed 8–25–20; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP20–859–000]

#### Northern Border Pipeline Company; Notice Inviting Post-Technical Conference Comments

On August 6, 2020, Federal Energy Regulatory Commission staff convened a technical conference to discuss the above-captioned proceeding.

As announced at that conference, all interested persons are invited to file post-technical conference comments to address any issues raised in this docket. Commenters may reference previously filed material, or file their own presentations from the technical conference, but are encouraged to avoid repetition or replication of previously filed material. In addition, the technical conference was transcribed. Transcripts are available from Ace Reporting Company and may be purchased online at [www.acefederal.com](http://www.acefederal.com), or by phone at (202) 347–3700. Initial comments must be submitted on or before August 27,

2020; reply comments must be submitted on or before September 17, 2020.

Comments should be filed electronically via the internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission’s website <http://www.ferc.gov/docs-filing/efiling.asp>. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at 1–866–208–3676, or for TTY, (202) 502–8659.

For more information about this Notice, please contact: John Martinic, (202) 502–8630, [John.Martinic@ferc.gov](mailto:John.Martinic@ferc.gov).

Dated: August 20, 2020.

**Nathaniel J. Davis, Sr.,**  
*Deputy Secretary.*

[FR Doc. 2020–18728 Filed 8–25–20; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. CP20–484–000; CP20–485–000]

#### ANR Pipeline Company; Great Lakes Transmission Limited Partnership; Notice of Schedule for Environmental Review of the Alberta Xpress and Lease Capacity Abandonment Projects

On June 22, 2020, ANR Pipeline Company (ANR) and Great Lakes Gas Transmission Limited Partnership (Great Lakes), filed applications in Docket Nos. CP20–484–000 and CP20–485–000, respectively, requesting a Certificate of Public Convenience and Necessity and authorization pursuant to Section 7(c) and 7(b) of the Natural Gas Act. ANR seeks to construct and operate certain natural gas pipeline facilities in Evangeline Parish, Louisiana, and Great Lakes seeks authorization to abandon firm capacity by lease to ANR. The proposed projects are known as the Alberta Xpress Project and Lease Capacity Abandonment Project (Projects) and would provide 165,000 dekatherms per day of incremental firm transportation capacity on ANR’s pipeline system to connect growing Gulf Coast LNG markets with Western Canadian Sedimentary Basin production.

On July 1, 2020, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notices of Applications for the Projects. Among other things, those notices alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on

a request for a federal authorization within 90 days of the date of issuance of the Commission staff’s Environmental Assessment (EA) for the Projects. This instant notice identifies the FERC staff’s planned schedule for the completion of the EA for the Projects.

#### Schedule for Environmental Review

Issuance of EA—December 4, 2020  
90-day Federal Authorization Decision  
Deadline—March 4, 2021

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Projects’ progress.

#### Project Description

##### CP20–484–000

ANR proposes to construct and operate one new 15,900 horsepower compressor station (designated as the Turkey Creek Compressor Station) and appurtenant facilities in Evangeline Parish, Louisiana, and acquire a lease between ANR and Great Lakes.

##### CP20–485–000

Great Lakes proposes to abandon firm capacity by a lease agreement with ANR. No new construction is proposed as part of the Lease Capacity Abandonment Project; however, this is related to the application filed by ANR to construct and operate the Alberta Xpress Project.

#### Background

On July 20, 2020, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Alberta Xpress and Lease Capacity Abandonment Projects and Request for Comments on Environmental Issues* (NOI). The NOI was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the NOI, the Commission received environmental comments from the Louisiana Department of Wildlife and Fisheries (LDWF). The LDWF provided recommendations on erosion control measures and stated that based on its initial review of ANR’s application, no impacts on rare, threatened, or endangered species or critical habitats are anticipated for the proposed Alberta Xpress Project. All substantive comments will be addressed in the EA.

#### Additional Information

In order to receive notification of the issuance of the EA and to keep track of

<sup>1</sup> *Tennessee Gas Pipeline Company, L.L.C.*, 162 FERC ¶ 61,167 at ¶ 50 (2018).

<sup>2</sup> 18 CFR 385.214(d)(1).

all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to <https://www.ferc.gov/ferc-online/overview> to register for eSubscription.

Additional information about the Project is available from the Commission's

Office of External Affairs at (866) 208-FERC or on the FERC website ([www.ferc.gov](http://www.ferc.gov)). Using the "eLibrary" link, select "General Search" from the eLibrary menu, enter the selected date range and "Docket Number" excluding the last three digits (i.e., CP20-484 and CP20-485), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208-3676, TTY (202) 502-8659, or at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov). The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: August 20, 2020.

**Kimberly D. Bose,**

Secretary.

[FR Doc. 2020-18732 Filed 8-25-20; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice Of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG20-235-000.

*Applicants:* Crescent Wind LLC.

*Description:* Notice of Self-Certification of Exempt Wholesale Generator Status of Crescent Wind LLC.

*Filed Date:* 8/20/20.

*Accession Number:* 20200820-5038.

*Comments Due:* 5 p.m. ET 9/10/20.

*Docket Numbers:* EG20-236-000.

*Applicants:* Contrail Wind Project, LLC.

*Description:* Notice of Self-Certification of Exempt Wholesale Generator Status of Contrail Wind Project, LLC.

*Filed Date:* 8/20/20.

*Accession Number:* 20200820-5044.

*Comments Due:* 5 p.m. ET 9/10/20.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER15-2115-007.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Compliance filing: Northwest Iowa Power Cooperative Formula Rate Compliance Filing to be effective 10/1/2015.

*Filed Date:* 8/20/20.

*Accession Number:* 20200820-5065.

*Comments Due:* 5 p.m. ET 9/10/20.

*Docket Numbers:* ER19-1506-004.

*Applicants:* Minonk Wind, LLC.

*Description:* Compliance filing: Approved Offer of Settlement Effective Date to be effective 6/1/2019.

*Filed Date:* 7/23/20.

*Accession Number:* 20200723-5024.

*Comments Due:* 5 p.m. ET 9/10/20.

*Docket Numbers:* ER20-17-003.

*Applicants:* Tenaska Pennsylvania Partners, LLC.

*Description:* Compliance filing: Reactive Service Rate Schedule Compliance Filing to be effective 11/1/2019.

*Filed Date:* 8/20/20.

*Accession Number:* 20200820-5097.

*Comments Due:* 5 p.m. ET 9/10/20.

*Docket Numbers:* ER20-2010-001.

*Applicants:* Horizon West Transmission, LLC.

*Description:* Request for Administrative Cancellation of eTariff Record of Horizon West Transmission, LLC.

*Filed Date:* 8/19/20.

*Accession Number:* 20200819-5117.

*Comments Due:* 5 p.m. ET 9/9/20.

*Docket Numbers:* ER20-2239-000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Conditional Motion for Shortened Comment Period and, Supplemental Comments of Kansas Power Pool to provide clarification, et al. for Commission consideration.

*Filed Date:* 8/19/20.

*Accession Number:* 20200819-5125.

*Comments Due:* 5 p.m. ET 8/26/20.

*Docket Numbers:* ER20-2698-000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2020-08-20\_SA 3548 OTP-Emmons-Logan Wind FSA (J302 J503 Hankinson-Ellendale) to be effective 9/1/2020.

*Filed Date:* 8/20/20.

*Accession Number:* 20200820-5014.

*Comments Due:* 5 p.m. ET 9/10/20.

*Docket Numbers:* ER20-2699-000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: Revisions to Remove Requirement to List Maximum Net Dependable Capacity to be effective 11/1/2020.

*Filed Date:* 8/20/20.

*Accession Number:* 20200820-5015.

*Comments Due:* 5 p.m. ET 9/10/20.

*Docket Numbers:* ER20-2700-000.

*Applicants:* Deuel Harvest Wind Energy LLC.

*Description:* Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 10/20/2020.

*Filed Date:* 8/20/20.

*Accession Number:* 20200820-5021.

*Comments Due:* 5 p.m. ET 9/10/20.

*Docket Numbers:* ER20-2702-000.

*Applicants:* Crescent Wind LLC.

*Description:* Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 10/20/2020.

*Filed Date:* 8/20/20.

*Accession Number:* 20200820-5035.

*Comments Due:* 5 p.m. ET 9/10/20.

*Docket Numbers:* ER20-2703-000.

*Applicants:* AEP Texas Inc.

*Description:* § 205(d) Rate Filing: AEPTX-Tres Bahias Generation Interconnection Agreement to be effective 8/7/2020.

*Filed Date:* 8/20/20.

*Accession Number:* 20200820-5037.

*Comments Due:* 5 p.m. ET 9/10/20.

*Docket Numbers:* ER20-2704-000.

*Applicants:* Contrail Wind Project, LLC.

*Description:* Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 10/20/2020.

*Filed Date:* 8/20/20.

*Accession Number:* 20200820-5042.

*Comments Due:* 5 p.m. ET 9/10/20.

*Docket Numbers:* ER20-2705-000.

*Applicants:* Mankato Energy Center, LLC.

*Description:* § 205(d) Rate Filing: Notice of Non-Material Change in Status and Revised MBR Tariff to be effective 7/21/2020.

*Filed Date:* 8/20/20.

*Accession Number:* 20200820-5080.

*Comments Due:* 5 p.m. ET 9/10/20.

*Docket Numbers:* ER20-2706-000.

*Applicants:* Mankato Energy Center II, LLC.

*Description:* § 205(d) Rate Filing: Notice of Non-Material Change in Status and Revised MBR Tariff to be effective 7/21/2020.

*Filed Date:* 8/20/20.

*Accession Number:* 20200820-5084.

*Comments Due:* 5 p.m. ET 9/10/20.

*Docket Numbers:* ER20-2707-000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: Blackberry Substation Upgrade Cost and Usage Agreement (Part 1 of 2) to be effective 10/20/2020.

*Filed Date:* 8/20/20.

*Accession Number:* 20200820–5094.

*Comments Due:* 5 p.m. ET 9/10/20.

*Docket Numbers:* ER20–2708–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: Blackberry Substation Upgrade Cost and Usage Agreement (Part 2 of 2) to be effective 10/20/2020.

*Filed Date:* 8/20/20.

*Accession Number:* 20200820–5095.

*Comments Due:* 5 p.m. ET 9/10/20.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 20, 2020.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2020–18731 Filed 8–25–20; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

*Docket Numbers:* RP20–1106–000.

*Applicants:* Sabal Trail Transmission, LLC.

*Description:* § 4(d) Rate Filing: Sabal Trail Tariff Modification—ACA Unit Charge to be effective 10/1/2020.

*Filed Date:* 8/19/20.

*Accession Number:* 20200819–5026.

*Comments Due:* 5 p.m. ET 8/31/20.

*Docket Numbers:* RP20–1107–000.

*Applicants:* Eastern Shore Natural Gas Company.

*Description:* § 4(d) Rate Filing: Negotiated Rate Filing-DCRC-Eff. September 1, 2020 to be effective 9/1/2020.

*Filed Date:* 8/19/20.

*Accession Number:* 20200819–5043.

*Comments Due:* 5 p.m. ET 8/31/20.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 20, 2020.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2020–18729 Filed 8–25–20; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OAR–2020–0104; FRL–10012–26–OAR]**

### E85 Flexible Fuel Vehicle Weighting Factor (F-Factor) for Model Years 2021 and Later Vehicles

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is requesting comment on data sources and analytical approaches on which to base an EPA determination of an updated weighting factor (F-factor) for E85 flexible fuel vehicles for model years 2021 and later. The F-factor for a given vehicle model year is used to weight the greenhouse gas (GHG) emissions of a flexible fuel vehicle operating on E85 with the GHG emissions of the vehicle operating on conventional gasoline, when calculating the compliance value for that model year. The F-factor is also used in the Corporate Average Fuel Economy program for weighting the measured fuel economy of flexible fuel vehicles when operating on E85.

**DATES:** Comments must be received on or before October 26, 2020.

**ADDRESSES:** You may send comments, identified by Docket ID No. EPA–HQ–OAR–2020–0104, by any of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov/> (our preferred method). Follow the online instructions for submitting comments.

- **Email:** [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov). Include Docket ID No. EPA–HQ–OAR–2020–0104 in the subject line of the message.

- **Fax:** (202) 566–9744 Include Docket ID No. EPA–HQ–OAR–2020–0104 on the cover of the fax.

- **Mail:** U.S. Environmental Protection Agency, EPA Docket Center, OAR, Docket EPA–HQ–OAR–2019–0210, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

- **Hand Delivery/Courier:** EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

**Instructions:** All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov/> or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

#### FOR FURTHER INFORMATION CONTACT:

Christopher Lieske, Office of Transportation and Air Quality, Assessment and Standards Division, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105. Telephone: (734) 214–4584. Fax: (734) 214–4816. Email address: [lieske.christopher@epa.gov](mailto:lieske.christopher@epa.gov).

#### SUPPLEMENTARY INFORMATION:

## I. Public Participation

EPA will keep the record open until October 26, 2020. All information will be available for inspection at the EPA Air Docket No. EPA-HQ-OAR-2020-0104. Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2020-0104, at <https://www.regulations.gov> (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

The EPA is temporarily suspending its Docket Center and Reading Room for public visitors, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov> as there may be a delay in processing mail and faxes. Hand deliveries or couriers will be received by scheduled appointment only. For further information and updates on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID-19.

## II. Background

Under EPA's greenhouse gas (GHG) program for passenger automobiles and light trucks, starting with the 2016 model year, the regulations describe how to determine the GHG value for

flexible fuel vehicles (FFVs) that run either on gasoline or on E85 (a fuel mixture of 85 percent ethanol and 15 percent gasoline). A weighting factor, referred to as the F-factor, is used to weight the gasoline and E85 emissions values of the tested vehicle model together to determine the combined value to be used for the vehicle model in the fleet average calculations. The default approach is to use a F-factor of zero such that the CO<sub>2</sub> emissions value of the vehicle is that measured when the vehicle is operated solely on gasoline.<sup>1 2</sup> The alternative is to combine the gasoline and E85 CO<sub>2</sub> values together in a way that accounts for real-world use of E85 by using an alternative F-factor established by EPA.<sup>3</sup> Note also that EPA regulations for heavy-duty chassis-certified vehicles (in the "2b/3" categories) point to the light-duty F factor regulations, allowing these heavy-duty vehicles to use an F factor determined for light-duty trucks under those regulations.<sup>4</sup>

EPA's regulations establish two different approaches that may be used to determine the value of the F-factor. Manufacturers may request that EPA determine and publish by guidance an appropriate value for the E85 F-factor, based on EPA's assessment of the real-world use of E85, to be used fleetwide. Alternatively, a manufacturer may submit data demonstrating the actual real-world use of E85 by its vehicles. EPA would determine whether the data is adequate and what an appropriate F-factor should be for the manufacturer.

Corporate Average Fuel Economy (CAFE) regulations specify that starting with MY 2020, an F-factor, once established by EPA, will also be used in CAFE to weight FFV fuel economy on conventional gasoline test fuel and E85 in determining the FFV's model type fuel economy.<sup>5</sup>

After receiving a request in mid-2012 that EPA establish an F-factor, EPA released a draft letter to auto manufacturers and published a notice in the **Federal Register** requesting

<sup>1</sup> 40 CFR 600.510-12(c)(v) and (j)(vi) specify the use of an F-factor of 0 unless an alternative F-factor is established by EPA under 40 CFR 600.510-12(k).

<sup>2</sup> The tailpipe GHG emissions used for compliance with the CO<sub>2</sub> standards described in 40 CFR 86.1818 are the carbon-containing emissions (generally, CO<sub>2</sub>, hydrocarbons, and carbon monoxide), which are summed based on the carbon weight fraction of each component into a value described in the regulations as the "carbon-related exhaust emissions" (CREE). For simplicity, however, in this notice we are using the term CO<sub>2</sub> instead of CREE, as CO<sub>2</sub> is more broadly understood and makes up the vast majority of the total carbon emissions from vehicles.

<sup>3</sup> 40 CFR 600.510-12(k).

<sup>4</sup> 40 CFR 86.1819-14 (d)(10)(i).

<sup>5</sup> See 40 CFR 600.510-12(c).

comment on a draft F-factor determination in March of 2013.<sup>6</sup> Based on EPA's analysis following the comment period, and considering the public comments received by the Agency, EPA issued a final determination via a letter to auto manufacturers on November 12, 2014.<sup>7</sup> The letter prescribed an F factor of 0.14 applicable to 2016–2018 model year vehicles. In August 2019, EPA extended the use of the 0.14 F-factor to MY 2019.<sup>8</sup> EPA did not conduct a new analysis at that time due to the analytical complexities involved in determining a forward-looking estimate of real-world fuel use and the need to provide manufacturers with near-term certainty for MY 2019.

## III. F-Factor for Model Years 2020 and Later

EPA received a request from auto manufacturers to establish an F-factor for model year 2020 and later.<sup>9</sup> The last time EPA conducted a technical analysis to support the F-factor was in 2014, when we established the original F-factor for MY2016–2018 vehicles. In the 2014 analysis, EPA based the F-factor primarily on data and projections from the Energy Information Administration's (EIA's) 2014 Annual Energy Outlook. As noted in the letter to manufacturers extending the use of the 0.14 F-factor to MY 2019, EPA intended to develop a forward-looking analysis for MY 2020 and later based on EPA's "assessment of real-world use of the alternative fuel."<sup>10</sup>

EPA's intention had been to update the methodology used to set the original 2016–2018 F-factor as the basis for a new F-factor for 2020 and beyond using the latest information. However, there are at least two key factors that EPA believes must be considered further. First, in EIA's Annual Energy Outlook 2020 (AEO2020),<sup>11</sup> EIA updated and changed significantly the way it projects E85 usage which is an important input to the method we used previously. Second, the COVID-19 pandemic has significantly changed the current market conditions for fuel usage, and it is

<sup>6</sup> 78 FR 17660 (March 22, 2013).

<sup>7</sup> "E85 Flexible Fuel Vehicle Weighting Factor for Model Year 2016–2018 Vehicles," EPA Office of Air and Radiation, CD-14-18, November 12, 2014.

<sup>8</sup> "E85 Flexible Fuel Vehicle Weighting Factor for Model Year 2019 Vehicles," EPA Office of Air and Radiation, CD-19-07, August 26, 2019.

<sup>9</sup> Alliance of Automobile Manufacturers letter to EPA, "F-Factor Guidance Request for MY 2020 and Later Flex Fuel Vehicles," September 3, 2020.

<sup>10</sup> "E85 Flexible Fuel Vehicle Weighting Factor for Model Year 2019 Vehicles," EPA Office of Air and Radiation, CD-19-07, August 26, 2019.

<sup>11</sup> Annual Energy Outlook 2020, U.S. Energy Information Administration, January 29, 2020.

uncertain how future market conditions will be affected.

Stakeholders have suggested that AEO2020 may not properly reflect the amount of E85 consumed in future years by FFVs.<sup>12</sup> There are indeed significant changes in AEO2020 in both methodology and results compared to previous versions of AEO as discussed in EPA's technical memorandum to the docket.<sup>13</sup> In addition, AEO2020 was released in January 2020, preceding the COVID-19 pandemic, and therefore may not reflect changes to the market due to the pandemic that could impact the F-factor. Therefore, at this time EPA believes that AEO2020 warrants further evaluation prior to it serving as the basis for the F-factor for MY 2020 and later.

Given the potential impact that both of these factors have on the F-factor, and recognizing the need to provide certainty to the automakers for purposes of their planning for MY 2020, EPA has extended the use of the existing F-factor of 0.14 to model year 2020.<sup>14</sup> This provides the time necessary to request comment and consider further an appropriate methodology and related inputs as we move toward MY 2021 and beyond.

The 0.14 F-factor will remain in place beyond MY2020 until such time as EPA adopts a revised F-factor based on new data and updated methodology.<sup>15</sup> While it is EPA's intention to update the F-factor for MYs 2021 and later, in the event that EPA is unable to resolve the uncertainties described above in a timely manner, this approach provides an F-factor of 0.14 for model years beyond 2020 as well. In that way, in the absence of a future EPA action, we are providing a level of certainty to manufacturers that there will be no gap in the F-Factor. The 0.14 F-factor will be available for use in compliance calculations for MY 2021 and later, unless and until it is changed by EPA through a new determination.

In order to better inform our approach to assessing an updated F-factor for MY2021 and later, EPA requests comment on the various data sources, analytical approaches, and potential alternatives to our draft methodology for

assessing the F-factor for MY2021 and later. Specifically, EPA has prepared a technical memorandum to the docket for this action.<sup>16</sup> This technical memorandum includes an overview of the AEO2020 renewable fuel and E85 projections, our current methodology and the value of F that resulted from our analysis using AEO2020, historical E85 usage, related data such as FFV volumes, other data sources, and further consideration of the issues.

This technical memorandum also discusses technical information EPA has received on these topics from the automotive industry and the ethanol industry, and describes the associated alternative F-Factor values commensurate with the technical information we have assessed. The materials provided by the industry stakeholders are also available for review in the docket.<sup>17</sup>

EPA requests comment on the appropriate sources of data for establishing an updated F-factor for MY2021 and later vehicles, including the forecasting of E85 consumption and the use of AEO in general (e.g., AEO2021 when updated next year). EPA requests comment on data sources and analytical methods to account for future changes in E85 infrastructure and impact on E85 use. EPA also requests comment on the possibility and potential merits of EPA developing its own E85 forecasting methodology, including comments on an alternative F-factor methodology which relies upon historical trends for predicting future F-factor values. Finally, EPA requests comments on the calculation methodology described in EPA's technical memorandum.

EPA has consulted with the Department of Transportation on the development of the F-factor draft technical assessment, as the Corporate Average Fuel Economy (CAFE) regulations point to EPA's F-factor regulations for 2020 and later model years.<sup>18</sup>

Interested parties should submit comments according to the guidelines described in this notice. EPA plans to consider the comments we receive, as well as additional available data, including AEO2021 when it is released,

in determining an updated F-factor applicable for MY2021 and later.

**Sarah Dunham,**

*Director, Office of Transportation and Air Quality, Office of Air and Radiation.*

[FR Doc. 2020-18714 Filed 8-25-20; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2015-0769; FRL-10013-91]

### Difenacoum; Product Cancellation Order for Certain Pesticide Registrations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces EPA's order for the cancellations to terminate uses, voluntarily requested by the registrant and accepted by the Agency, of the products listed in Table 1 and Table 2 of Unit II, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows a June 14, 2018 **Federal Register** Notice of Receipt of Requests from the registrant listed in Table 3 of Unit II to voluntarily cancel these product registrations. In the June 14, 2018 notice, EPA indicated that it would issue an order implementing the cancellations and amendments to terminate uses, unless the Agency received substantive comments within the 30-day comment period that would merit its further review of these requests, or unless the registrant withdrew their requests. The Agency received no comments on the notice. Further, the registrant did not withdraw their requests. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

**DATES:** The cancellations are effective August 26, 2020.

#### FOR FURTHER INFORMATION CONTACT:

Steven Snyderman, Pesticide Re-evaluation Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (703) 347-0249; email address: [snyderman.steven@epa.gov](mailto:snyderman.steven@epa.gov).

#### SUPPLEMENTARY INFORMATION:

<sup>12</sup> Stakeholder letters and related materials are provided in Docket EPA-HQ-OAR-2020-0104.

<sup>13</sup> "Technical Memorandum Describing Potential Methods for Determining the Weighting Factor (F-Factor) for Testing E85 Flexible Fuel Vehicles (FFV) Light-duty Vehicles," from EPA Office of Transportation and Air Quality, Assessment and Standards Division to F-Factor Determination Docket EPA-HQ-OAR-2020-0104.

<sup>14</sup> "E85 Flexible Fuel Vehicle Weighting Factor for Model Years 2020 and Later Vehicles," EPA Office of Air and Radiation, CD-20-12 (LDV/LDT/IGI/LIMO/HD2b/3).

<sup>15</sup> Ibid.

<sup>16</sup> "Technical Memorandum Describing Potential Methods for Determining the Weighting Factor (F-Factor) for Testing E85 Flexible Fuel Vehicles (FFV) Light-duty Vehicles," from EPA Office of Transportation and Air Quality, Assessment and Standards Division to F-Factor Determination Docket EPA-HQ-OAR-2020-0104.

<sup>17</sup> See materials from industry stakeholders including the Alliance for Automotive Innovation and the Fuel Freedom Foundation, Docket EPA-HQ-OAR-2020-0104.

<sup>18</sup> See 40 CFR 600.510-12(c).



**I. General Information****A. Does this action apply to me?**

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

**B. How can I get copies of this document and other related information?**

The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2015-0769, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805.

Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

**II. What action is the Agency taking?**

This notice announces the cancellations, as requested by registrant, of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Table 1 of this unit.

TABLE 1—DIFENACOU M PRODUCT CANCELLATIONS

Registration No.	Product name	Company
36488-63 .....	Difenacou m Rat and Mouse Block IV .....	Woodstream Corporation.
36488-64 .....	Difenacou m Rat and Mouse Place Packs IV .....	Woodstream Corporation.
36488-65 .....	Difenacou m Rat and Mouse Pellets IV .....	Woodstream Corporation.
36488-66 .....	Technical Difenacou m .....	Woodstream Corporation.
47629-12 .....	Difenacou m Technical .....	Woodstream Corporation.
47629-14 .....	Difenacou m Rat and Mouse Pellets .....	Woodstream Corporation.
47629-16 .....	Difenacou m Rat and Mouse Blocks .....	Woodstream Corporation.
47629-17 .....	Difenacou m Rat and Mouse Place Packs .....	Woodstream Corporation.

Table 2 of this unit includes the names and addresses of record for all the registrants of the products listed in

Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA

registration numbers of the products listed in Table 1 of this unit.

TABLE 2—REGISTRANTS OF CANCELLED PRODUCTS.

EPA Company No.	Company name and address
36488 .....	Woodstream Corporation, 69 N Locust St., P.O. Box 327, Lititz, PA 17543.
47629 .....	Woodstream Corporation, 69 N Locust St., P.O. Box 327, Lititz, PA 17543.

**III. Summary of Public Comments Received and Agency Response to Comments**

During the public comment period provided, EPA received no comments in response to the June 14, 2018 **Federal Register** notice announcing the Agency's receipt of the requests for voluntary cancellation of products listed in Table 1 of Unit II.

**IV. Cancellation Order**

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)(1)), EPA hereby approves the requested cancellations of the registrations identified in Table 1 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Table 1 of Unit II are cancelled. The effective date of the cancellations and amendments listed in Table 1 that are subject of this notice is August 26, 2020. Any distribution, sale,

or use of existing stocks of the products identified in Table 1 of Unit II in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI will be a violation of FIFRA.

**V. What is the Agency's authority for taking this action?**

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be cancelled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in

the **Federal Register** of June 14, 2018 (83 FR 115) (FRL-9978-37). The comment period closed on July 16, 2018.

**VI. Provisions for Disposition of Existing Stocks**

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the action. The existing stocks provision for the products subject to this order is as follows.

For voluntary product cancellations, identified in Table 1 of Unit II, in conjunction with the publication of the cancellation order in the **Federal Register**, the registrant is no longer permitted to sell and distribute existing stocks, except for export consistent with

FIFRA section 17 (7 U.S.C. 1360) or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of cancelled products until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the cancelled products.

**Authority:** 7 U.S.C. 136 *et seq.*

Dated: August 14, 2020.

**Mary Reeves,**

*Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.*

[FR Doc. 2020-18708 Filed 8-25-20; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2020-0077; FRL-10013-56]

### Certain New Chemicals; Receipt and Status Information for July 2020

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA is required under the Toxic Substances Control Act (TSCA), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, to make information publicly available and to publish information in the **Federal Register** pertaining to submissions under TSCA Section 5, including notice of receipt of a Premanufacture notice (PMN), Significant New Use Notice (SNUN) or Microbial Commercial Activity Notice (MCAN), including an amended notice or test information; an exemption application (Biotech exemption); an application for a test marketing exemption (TME), both pending and/or concluded; a notice of commencement (NOC) of manufacture (including import) for new chemical substances; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review. This document covers the period from 07/01/2020 to 07/31/2020.

**DATES:** Comments identified by the specific case number provided in this document must be received on or before September 25, 2020.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2020-0077, and the specific case number for the chemical substance related to your comment, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- **Mail:** Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- **Hand Delivery:** To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

#### FOR FURTHER INFORMATION CONTACT:

*For technical information contact:* Jim Rahai, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 564-8593; email address: [rahai.jim@epa.gov](mailto:rahai.jim@epa.gov).

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Executive Summary

###### A. What action is the Agency taking?

This document provides the receipt and status reports for the period from 07/01/2020 to 07/31/2020. The Agency is providing notice of receipt of PMNs, SNUNs and MCANs (including amended notices and test information); an exemption application under 40 CFR part 725 (Biotech exemption); TMEs, both pending and/or concluded; NOCs to manufacture a new chemical substance; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review.

EPA is also providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices>. This

information is updated on a weekly basis.

###### B. What is the Agency's authority for taking this action?

Under the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.*, a chemical substance may be either an "existing" chemical substance or a "new" chemical substance. Any chemical substance that is not on EPA's TSCA Inventory of Chemical Substances (TSCA Inventory) is classified as a "new chemical substance," while a chemical substance that is listed on the TSCA Inventory is classified as an "existing chemical substance." (See TSCA section 3(11).) For more information about the TSCA Inventory please go to: <https://www.epa.gov/tsca-inventory>.

Any person who intends to manufacture (including import) a new chemical substance for a non-exempt commercial purpose, or to manufacture or process a chemical substance in a non-exempt manner for a use that EPA has determined is a significant new use, is required by TSCA section 5 to provide EPA with a PMN, MCAN or SNUN, as appropriate, before initiating the activity. EPA will review the notice, make a risk determination on the chemical substance or significant new use, and take appropriate action as described in TSCA section 5(a)(3).

TSCA section 5(h)(1) authorizes EPA to allow persons, upon application and under appropriate restrictions, to manufacture or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a)(2), for "test marketing" purposes, upon a showing that the manufacture, processing, distribution in commerce, use, and disposal of the chemical will not present an unreasonable risk of injury to health or the environment. This is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: <http://www.epa.gov/oppt/newchems>.

Under TSCA sections 5 and 8 and EPA regulations, EPA is required to publish in the **Federal Register** certain information, including notice of receipt of a PMN/SNUN/MCAN (including amended notices and test information); an exemption application under 40 CFR part 725 (biotech exemption); an application for a TME, both pending and concluded; NOCs to manufacture a new chemical substance; and a periodic status report on the new chemical substances that are currently under EPA review or have recently concluded review.

**C. Does this action apply to me?**

This action provides information that is directed to the public in general.

**D. Does this action have any incremental economic impacts or paperwork burdens?**

No.

**E. What should I consider as I prepare my comments for EPA?**

1. *Submitting confidential business information (CBI).* Do not submit this information to EPA through [regulations.gov](https://www.epa.gov/regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

**II. Status Reports**

In the past, EPA has published individual notices reflecting the status

of TSCA section 5 filings received, pending or concluded. In 1995, the Agency modified its approach and streamlined the information published in the **Federal Register** after providing notice of such changes to the public and an opportunity to comment (See the **Federal Register** of May 12, 1995, (60 FR 25798) (FRL-4942-7). Since the passage of the Lautenberg amendments to TSCA in 2016, public interest in information on the status of section 5 cases under EPA review and, in particular, the final determination of such cases, has increased. In an effort to be responsive to the regulated community, the users of this information, and the general public, to comply with the requirements of TSCA, to conserve EPA resources and to streamline the process and make it more timely, EPA is providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices>. This information is updated on a weekly basis.

**III. Receipt Reports**

For the PMN/SNUN/MCANs that have passed an initial screening by EPA during this period, Table I provides the following information (to the extent that

such information is not subject to a CBI claim) on the notices screened by EPA during this period: The EPA case number assigned to the notice that indicates whether the submission is an initial submission, or an amendment, a notation of which version was received, the date the notice was received by EPA, the submitting manufacturer (*i.e.*, domestic producer or importer), the potential uses identified by the manufacturer in the notice, and the chemical substance identity.

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that this information in the table is generic information because the specific information provided by the submitter was claimed as CBI. Submissions which are initial submissions will not have a letter following the case number. Submissions which are amendments to previous submissions will have a case number followed by the letter "A" (*e.g.* P-18-1234A). The version column designates submissions in sequence as "1", "2", "3", etc. Note that in some cases, an initial submission is not numbered as version 1; this is because earlier version(s) were rejected as incomplete or invalid submissions. Note also that future versions of the following tables may adjust slightly as the Agency works to automate population of the data in the tables.

TABLE I—PMN/SNUN/MCANs APPROVED \* FROM 07/01/2020 TO 07/31/2020

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P-16-0345A .....	5	07/13/2020	CBI .....	(G) Processing aid .....	(G) Acrylamide, polymer with methacrylic acid derivatives.
P-16-0460A .....	5	08/21/2018	SEFA Group, Inc .....	(S) Process aid for vulcanized rubber .....	(G) Silane-treated aluminosilicate.
P-16-0461A .....	5	08/21/2018	SEFA Group, Inc .....	(S) Process aid for vulcanized rubber .....	(G) Silane-treated aluminosilicate.
P-16-0462A .....	5	08/21/2018	SEFA Group, Inc .....	(S) Process aid for vulcanized rubber .....	(G) Silane-treated aluminosilicate.
P-16-0463A .....	5	08/21/2018	SEFA Group, Inc .....	(S) Process aid for vulcanized rubber .....	(G) Silane-treated aluminosilicate.
P-16-0464A .....	5	08/21/2018	SEFA Group, Inc .....	(S) Process aid for vulcanized rubber .....	(G) Silane-treated aluminosilicate.
P-16-0512A .....	4	06/30/2020	CBI .....	(S) Component of a UV curable printing inks.	(G) Fatty acid dimers, polymer with acrylic acid and pentaerythritol reaction products.
P-17-0115A .....	4	07/24/2020	CBI .....	(S) An adhesion promoter for coating formulations.	(G) Aminoalkyl alkoxysilane.
P-17-0267A .....	7	08/22/2018	Honeywell International (123312).	(G) solvent for dispersive use .....	(S) (1) (Z)-1-chloro-3,3,3-trifluoro-1-propene.
P-17-0267A .....	9	09/14/2018	Honeywell International (123312).	(G) solvent for dispersive use .....	(S) (1) (Z)-1-chloro-3,3,3-trifluoro-1-propene.
P-17-0267A .....	10	09/25/2018	Honeywell International (123312).	(G) solvent for dispersive use .....	(S) (1) (Z)-1-chloro-3,3,3-trifluoro-1-propene.
P-17-0288A .....	8	11/05/2018	SK Chemicals America, Inc.	(G) All-purpose packaging .....	(G) Carbomonocyclicdicarboxylic acid, polymer with cycloalkane(C=5-8) alkanol, alkanediol(C=1-5), 4-(hydroxymethyl)cyclohexyl)methyl 4-(hydroxymethyl)cyclohexanecarboxylate, substitutedalkanol(C=1-5) and 4,4'-[oxybis(methylene)]bis[cyclohexanemethanol];(M).
P-17-0329A .....	5	06/22/2018	CBI .....	(G) Intermediate used in synthesis .....	(G) Substituted haloaromatic trihaloalkyl-aromatic alkanone.
P-17-0329A .....	7	07/12/2018	CBI .....	(G) Intermediate used in synthesis .....	(G) Substituted haloaromatic trihaloalkyl-aromatic alkanone.

TABLE I—PMN/SNUN/MCANS APPROVED \* FROM 07/01/2020 TO 07/31/2020—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P-17-0398A .....	9	11/02/2018	Nexus Fuels .....	(G) Wax-Component of complex formulations for blending.	(G) Branched Cyclic and Linear Hydrocarbons from Plastic Depolymerization.
P-17-0399A .....	9	11/02/2018	Nexus Fuels .....	(G) stock use .....	(G) Alkane, Alkene, Styrenic Compounds Derived from Plastic Depolymerization.
P-18-0001A .....	9	11/02/2018	Nexus Fuels .....	(G) Additive .....	(G) Carbon compound derived from plastic depolymerization.
P-18-0013A .....	4	07/01/2020	Shin-Etsu Microsi .....	(G) Microlithography for electronic device manufacturing.	(G) Substituted-triphenylsulfonium, inner salt.
P-18-0042A .....	10	08/20/2018	Myriant Corporation .....	(G) Industrial Coating .....	(S) 2,5-Furandione, polymer with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, 3a,4,5,6,7,7a-hexahydro-4,7-methano-1H-inden-5(or 6)-yl ester, ester with 2,3-dihydroxypropyl neodecanoate, polymer with 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, 2-hydroxyethyl acrylate- and 2-hydroxyethyl methacrylate-blocked.
P-18-0042A .....	11	09/17/2018	Myriant Corporation .....	(G) Industrial Coating .....	(S) 2,5-Furandione, polymer with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, 3a,4,5,6,7,7a-hexahydro-4,7-methano-1H-inden-5(or 6)-yl ester, ester with 2,3-dihydroxypropyl neodecanoate, polymer with 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, 2-hydroxyethyl acrylate- and 2-hydroxyethyl methacrylate-blocked.
P-18-0042A .....	12	09/24/2018	Myriant Corporation .....	(G) Industrial Coating .....	(S) 2,5-Furandione, polymer with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, 3a,4,5,6,7,7a-hexahydro-4,7-methano-1H-inden-5(or 6)-yl ester, ester with 2,3-dihydroxypropyl neodecanoate, polymer with 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, 2-hydroxyethyl acrylate- and 2-hydroxyethyl methacrylate-blocked.
P-18-0104A .....	9	07/20/2020	CBI .....	(S) Halogen free flame retardant in thermoplastic polymers.	(G) Acrylic acid, reaction products with pentaerythritol, polymerized.
P-18-0110A .....	8	09/10/2018	CBI .....	(G) Open dispersive use. Component in liquid paint coating.	(G) Formaldehyde, polymer with arylalpolymine, 2-(chloromethyl) oxirane and phenol.
P-18-0111A .....	8	09/10/2018	CBI .....	(G) Component in liquid paint coating .....	(G) Phenol, polymer with formaldehyde, glycidyl ether, polymers with arylalpolymine.
P-18-0143A .....	8	07/10/2020	Huntsman international, LLC.	(G) Anti-corrosive primer for outdoor industrial applications.	(G) Fatty acids, tall-oil polymers with aminoalkyl, dialkyl alkane diamine, polyalkylene polyamine alkanepolyamine fraction, and tris-[(alkylamino) alkyl] phenol.
P-18-0144A .....	7	07/10/2020	CBI .....	(G) Anti-corrosive primer for outdoor industrial applications.	(G) Formaldehyde, polymer with an alkane diamine and phenol.
P-18-0202A .....	2	06/14/2018	Hexion, Inc .....	(G) Tackifier, Rubber additive .....	(G) Trialkyl alkanal, polymer with phenol.
P-18-0202A .....	6	11/30/2018	Hexion, Inc .....	(G) Tackifier, Rubber additive .....	(G) Trialkyl alkanal, polymer with phenol.
P-18-0203A .....	2	06/14/2018	Hexion, Inc .....	(G) Rubber, Tackifier additives .....	(G) Trialkyl alkanal, polymer with alkylalkanal and phenol.
P-18-0203A .....	6	11/30/2018	Hexion, Inc .....	(G) Rubber, Tackifier additives .....	(G) Trialkyl alkanal, polymer with alkylalkanal and phenol.
P-18-0204A .....	2	06/14/2018	Hexion, Inc .....	(G) Rubber, Tackifier additive .....	(G) Alkyl alkanal, polymer with phenol.
P-18-0204A .....	6	11/30/2018	Hexion, Inc .....	(G) Rubber, Tackifier additive .....	(G) Alkyl alkanal, polymer with phenol.
P-18-0205A .....	2	06/14/2018	Hexion, Inc .....	(G) Rubber, Tackifier additive .....	(G) Alkyl alkanal, polymer with formaldehyde and phenol.
P-18-0205A .....	6	11/30/2018	Hexion, Inc .....	(G) Rubber, Tackifier additive .....	(G) Alkyl alkanal, polymer with formaldehyde and phenol.
P-18-0206A .....	2	06/14/2018	Hexion, Inc .....	(G) Rubber, Tackifier additive .....	(G) Alkanal, polymer with phenol.
P-18-0206A .....	6	11/30/2018	Hexion, Inc .....	(G) Rubber, Tackifier additive .....	(G) Alkanal, polymer with phenol.
P-18-0221A .....	2	07/22/2020	Georgia-Pacific Chemicals, LLC.	(S) binder for wood panels .....	(G) Polyglycerol reaction product with acid anhydride, etherified.
P-18-0236A .....	2	09/26/2018	The Sherwin Williams Company.	(G) Paint additive .....	(G) Metal, alkenoic acid-alkyl alkenoate-alkyl substituted alkenoate polymer carbopolycycle complexes.
P-18-0239A .....	4	07/06/2020	CBI .....	(G) Reactant in coating .....	(G) N-alkyl propanamide.
P-18-0240A .....	4	07/06/2020	CBI .....	(G) Reactant in coating .....	(G) N-alkyl acetamide.
P-18-0281A .....	4	07/09/2020	CBI .....	(G) Electrolyte additive .....	(G) Cyclic sulfate.
P-18-0282A .....	10	01/25/2019	Ashland, Inc .....	(G) Adhesive .....	(G) fatty acid ester, polyether, diisocyanate polymer.
P-18-0303A .....	4	07/22/2020	CBI .....	(G) UV curable oligomer .....	(G) 2-Propenoic acid, polymer with aliphatic cyclic epoxide.
P-18-0309A .....	8	11/01/2018	HighLand Logistics, LLC ..	(G) Latex applied to textiles for anti-odor and anti-microbial applications.	(G) alkanedioic acid, 2-alkylene-, polymer with polyhaloaromatic arylate, sodium salt, hydroxyalkyl alkanooate, alkanooic acid, alkenyl-hydroxypoly(oxy-1,2-ethanediyl-alkenylloxymethylalkoxy polyoxy-1,2-ethandiyl).

TABLE I—PMN/SNUN/MCANS APPROVED \* FROM 07/01/2020 TO 07/31/2020—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P-18-0327A .....	7	07/09/2020	CBI .....	(G) Filler for non-dispersive resins .....	(G) Mixed Metal Oxide.
P-18-0327A .....	8	07/09/2020	CBI .....	(G) Filler for non-dispersive resins .....	(G) Mixed Metal Oxide.
P-18-0327A .....	9	07/16/2020	CBI .....	(G) Filler for non-dispersive resins .....	(G) Mixed Metal Oxide.
P-18-0355A .....	3	07/29/2020	CBI .....	(G) paint .....	(G) Alkanediol, substituted alkyl, polymer with carbomonocycle, alkanedioate substituted carbomonocycle, ester with substituted alkanooate.
P-18-0358A .....	2	10/18/2018	Shikoku International Corporation.	(S) Used as a curing agent within carbon fiber reinforced plastics (CFRP) prepreg to expedite the hardening process during the final thermosetting operation. Industrial adhesives for electronics to expedite the hardening process during the final thermosetting operation.	(S) 1H-Imidazole-1-propanenitrile,2-ethyl-aryl-methyl-.
P-18-0379A .....	3	07/08/2020	CBI .....	(G) Hardener for waterborne epoxy system.	(G) Cashew nutshell liquid polymer with Epichlorohydrin, formaldehyde, phenol, amines and glycol.
P-18-0398A .....	5	07/17/2020	Evonik Corporation .....	(S) Intermediate .....	(G) Polyalkylpolyalkylenepolyamine.
P-18-0400A .....	8	07/28/2020	CBI .....	(G) open, non-dispersive use, additive for textile industry.	(G) Rosin adduct ester, polymer with polyols, potassium salt.
P-19-0038A .....	5	06/30/2020	Allan Chemical Corporation.	(S) Ink carrier for the ceramic industries ...	(S) Fatty acids, coco, iso-Bu esters.
P-19-0141A .....	6	07/08/2020	CBI .....	(S) For use in metal treatment coatings for lubrication and corrosion protection.	(S) Phosphoric Acid, manganese(2+) salt (2:3);(S) Phosphoric acid, manganese(2+) salt (4:5).
P-19-0188A .....	2	07/24/2020	Archroma U.S., Inc .....	(S) Wetting agent and lubricant during textile processing.	(G) Octadecanamide, N,N-dialkyl, salts.
P-20-0011A .....	7	07/16/2020	CBI .....	(G) Light stabilizer .....	(G) Tetraoxaspiro[5.5]alkyl-3,9-diylbis(alkyl-2,1-diyl) bis(2-cyano-3-(3,4-dimethoxyphenyl)acrylate).
P-20-0058A .....	3	07/23/2020	CBI .....	(G) Additive for automatic dishwashing, hard surface cleaner.	(G) Polysaccharide, polymer with unsaturated carboxylic acid and methacryloxyethyltrimethyl ammonium chloride, sodium salt, acid salt initiated.
P-20-0061A .....	2	07/07/2020	Allnex USA Inc .....	(S) Coating resin crosslinking agent .....	(G) Formaldehyde, polymer with alkylphenols, alkyl ether.
P-20-0062A .....	3	07/09/2020	Inabata America Corporation.	(S) Use as an electrically conductive material, additive in field emission applications, batteries, energy storage, and electrode applications to improve physical or mechanical properties, weight reduction, heat generation material, heat dissipation material.	(S) Multi-walled carbon nanotubes; closed; 4.4–12.8 nm diameter; bundle length 10.6–211.1 um; Grade: Jenotube 6 (Substance-1).
P-20-0063A .....	3	07/09/2020	Inabata America Corporation.	(S) Use as an electrically conductive material, an additive in field emission applications, batteries, energy storage, and electrode applications, to improve physical or mechanical properties, for weight reduction, a heat generation material, heat dissipation material.	(S) Multi-walled carbon nanotubes; closed; 5.1–11.6 nm diameter; bundle length 1.9–552.0 um; Grade: Jenotube 8 (Substance-2).
P-20-0064A .....	3	07/09/2020	Inabata America Corporation.	(S) Use as an electrically conductive, in field emission applications, in batteries, energy storage, and electrode applications, to improve physical or mechanical properties, for weight reduction, a heat generation material, heat dissipation material.	(S) Multi-walled carbon nanotubes; closed; 7.9–14.2 nm diameter; bundle length 9.4–106.4 um; Grade: Jenotube 10 (Substance-3).
P-20-0065A .....	3	07/09/2020	Inabata America Corporation.	(S) Use as an electrically conductive material, an additive in field emission applications, an additive in batteries, energy storage, and electrode applications, an additive to improve physical or mechanical properties, an additive for weight reduction, heat generation and dissipation material.	(S) Multi-walled carbon nanotubes; closed; 17.0–34.7 nm diameter; globular shape; Grade: Jenotube 20 (Substance-4).
P-20-0068A .....	3	07/02/2020	CBI .....	(G) Perfume .....	(S) 1,3-Propanediol, 2,2-dimethyl-, 1,3-diacetate.
P-20-0071A .....	7	06/29/2020	CBI .....	(G) Colorant .....	(G) Salt of 2-Naphthalenesulfonic acid, hydroxy [(methoxy-methyl-4-sulfohenyl)diazenyl].
P-20-0077A .....	3	06/29/2020	Aalborz Chemical LLC .....	(S) UV Curing Agent for use in Inks and Coatings.	(G) 1-(dialkyl-diphenylene alkane)-2-alkyl-2-hydroxazine-1-alkylketone.
P-20-0090A .....	3	07/27/2020	CLARIANT Corporation .....	(S) Surfactant for use in dishwashing detergents.	(G) Poly(oxy-1,2-ethanediyl), .alpha.-(alkyl-hydroxyalkyl)-.omega.-hydroxy-, .omega.-alkyl ethers.
P-20-0094A .....	2	07/23/2020	CBI .....	(S) Formulation component in UV/EB coatings, inks and 3D printing/stereolithography/additive, adhesive manufacturing.	(G) Alkanedioic acid, polymer with tri-alkyl-isocyanatocarbomonocycle, dialkylglycols, ester with 2,3-dihydroxypropyl alkyl ester, 2-hydroxyethyl methacrylate-blocked.

TABLE I—PMN/SNUN/MCANS APPROVED \* FROM 07/01/2020 TO 07/31/2020—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P-20-0096A .....	3	07/15/2020	Solenis LLC .....	(G) Use in papermaking process .....	(G) Unsaturated dicarboxylic acid polymer with 2-(dialkylamino)alkyl-alkyl-alkanoate, N, N-dialkyl-alkene amide, 2-propenamide and salt of alkyl-substituted alkene sulfonate.
P-20-0102A .....	2	07/24/2020	Novihum Technologies, Inc.	(S) Fertilizer/Soil amendment .....	(S) Chemical Abstract (CA) index name: Coal, brown, ammoxidized.
P-20-0103A .....	6	07/24/2020	Sachem Inc .....	(G) On site intermediate for the production of finished goods.	(G) Cycloaliphatic amine formate.
P-20-0104A .....	5	07/13/2020	CBI .....	(G) Additive .....	(G) Alkenoic acid, polymer with (alkyl alkenyl) polyether.
P-20-0106A .....	3	06/29/2020	CBI .....	(G) Polymer reactant .....	(G) 3-(2-Alkoxyalkyl)-2-heterocycle.
P-20-0107A .....	3	07/23/2020	CBI .....	(G) Crosslinking polymer .....	(G) Carbimide, polyalkylenepolyarylene ester, polymer with 1,2-alkanediol, 2-alkoxyalkyl methacrylate- and 3-(2-alkoxyalkyl)-2-heterocycle-blocked.
P-20-0122 .....	4	07/01/2020	Shin-etsu Microsi .....	(G) Microlithography for electronic device manufacturing.	(G) Heterocyclic onium compound with 1-substituted-alkyl 2,2,2-trisubstitutedalkyl 2-methyl-2-propenoate (1:1), polymer with acenaphthylene, 4-ethenyl-a,a-dimethylbenzenemethanol and 4-ethenylphenyl acetate, hydrolyzed.
P-20-0127 .....	3	07/09/2020	Kuraray America, Inc .....	(S) Industrial Solvent .....	(S) 2H-Pyran, tetrahydro-4-methyl-.
P-20-0128 .....	1	06/29/2020	CBI .....	(G) Additive in Household consumer products.	(S) 2-Oxiraneacetic acid, 3-ethyl-, 1-(3,3-dimethylcyclohexyl)ethyl ester.
P-20-0129 .....	3	07/09/2020	CBI .....	(G) Surfactant .....	(G) Alkyl dibetaine.
P-20-0130 .....	2	07/09/2020	CBI .....	(G) component of industrial coating .....	(G) Organic acid ester, polymer with aliphatic diols and 1,1'-methylenebis[4-isocyanatobenzene].
P-20-0131 .....	1	07/02/2020	Ashland Inc .....	(S) Laminating adhesive to make flexible packaging.	(G) Alkanedioic acid, polymer with alkanediol, alpha-hydro-omega-alkoxy[oxy(alkyl-1,2-alkanediyl)], 1,1-alkylenebis[isocyanatobenzene] and [(1-alkyl-1,2-alkanediyl)bis(oxy)]bis[alkanol].
P-20-0132 .....	1	07/02/2020	Designer Molecules, Inc ..	(G) Adhesive component .....	(S) 1H-Pyrrrole-2,5-dione, 3-methyl-, 1,1'-C36-alkylenebis-.
P-20-0133 .....	4	07/14/2020	Huntsman International LLC.	(G) component of foam .....	(G) Fatty acid oil polymer with aliphatic polyols and aromatic diacid.
P-20-0134 .....	4	07/14/2020	Huntsman International LLC.	(G) component of foam .....	(G) Aromatic acid, polymer with aliphatic diol and aromatic diacid.
P-20-0135 .....	4	07/14/2020	Huntsman International LLC.	(G) component in foam insulation .....	(G) Fatty acid polymer with polyols, aliphatic alcohol and aromatic diacid.
P-20-0136 .....	1	07/09/2020	Clariant Corporation .....	(S) Surface treatment compound for textiles.	(G) Arylcarboxylic acid, alkyl ester, polymer with alkanediol, ester with methyloxirane polymer with oxirane alkyl ether.
P-20-0137 .....	2	07/17/2020	Agrimis .....	(S) Intermediate .....	(S) Butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-, ammonium salt (1:1).
P-20-0139 .....	1	07/27/2020	Shin-etsu Microsi .....	(G) Contained use for microlithography for electronic device manufacturing.	(G) Sulfonium, triphenyl-, 1,2-substituted-alkyltricycloalkyl-1-carboxylate (1:1).
P-20-0140 .....	1	07/27/2020	Shin-etsu Microsi .....	(S) Photoacid generator for chemically amplified photoresist.	(G) N-Substituted-beta-alanine, heterosubstituted-alkyl ester, ion(1-), triphenylsulfonium (1:1).
P-20-0141 .....	1	07/28/2020	Shin-etsu Microsi .....	(G) Contained use for microlithography for electronic device manufacturing.	(G) Sulfonium, [4-(1,1-dimethylethyl)phenyl]diphenyl-, salt with heterosubstituted-alkyl tricycloalkane-carboxylate (1:1).
P-20-0142 .....	1	07/28/2020	Shin-etsu Microsi .....	(G) Contained use for microlithography for electronic device manufacturing.	(G) Dibenzothiophenium, 5-phenyl-, salt with 2,2-diheterosubstituted-2-sulfoethyl substituted-heterotricycloalkane-carboxylate (1:1).
P-20-0143 .....	1	07/28/2020	CBI .....	(S) Binder for Thermoplastic Coatings, Binder or Ink/Adhesive.	(S) Cyclohexanemethanamine, 5-amino-1,3,3-trimethyl-, polymer with alpha-hydro-omega-hydroxypoly(oxy-1,4-butanediyl), 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane and 1,1-methylenebis[4-isocyanatobenzene].
P-20-0145 .....	1	07/29/2020	Shin-etsu Microsi .....	(G) Contained use for microlithography for electronic device manufacturing.	(G) Substituted heterocyclic onium compound, salt with heteropolysubstitutedalkyl substitutedtricycloalkane carboxylate (1:1), polymer with disubstitutedaromatic compound and 1-methylcyclopentyl 2-methyl-2-propenoate, di-Me 2,2'-(1,2-diazenediyl)bis[2-methylpropanoate]-initiated.
P-20-0147 .....	1	07/30/2020	Shin-etsu Microsi .....	(G) Contained use for microlithography for electronic device manufacturing.	(G) Substituted-2H-thiopyrylium, salt with heterosubstituted-alkyl tricycloalkane-carboxylate (1:1).

TABLE I—PMN/SNUN/MCANS APPROVED \* FROM 07/01/2020 TO 07/31/2020—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
SN-18-0001A ...	8	05/30/2018	CBI .....	(S) Solution based (<1% concentration) Oxidation Catalyst for the Composite Market (Fiber glass: Insulation, Filtration media, Reinforcements, Optical Fibers), wood stain (Oxidation Catalyst for Composite industry ( <i>e.g.</i> , for application to gelcoat-type finished goods such as boats, bowling balls, shower stalls and bathtubs, etc.). (G) SNUN chemical will be used as catalysts in composite matrix.	(G) Alkyl-dihydroxy-methyl pyridin-carboxylate Iron chloride complex.
SN-18-0001A ...	15	07/24/2018	CBI .....	(S) Solution based (<1% concentration) Oxidation Catalyst for the Composite Market (Fiber glass: Insulation, Filtration media, Reinforcements, Optical Fibers), wood stain (Oxidation Catalyst for Composite industry ( <i>e.g.</i> , for application to gelcoat-type finished goods such as boats, bowling balls, shower stalls and bathtubs, etc.). (G) SNUN chemical will be used as catalysts in composite matrix.	(G) Alkyl-dihydroxy-methyl pyridin-carboxylate Iron chloride complex.
SN-18-0001A ...	17	08/02/2018	CBI .....	(S) Solution based (<1% concentration) Oxidation Catalyst for the Composite Market (Fiber glass: Insulation, Filtration media, Reinforcements, Optical Fibers), wood stain (Oxidation Catalyst for Composite industry ( <i>e.g.</i> , for application to gelcoat-type finished goods such as boats, bowling balls, shower stalls and bathtubs, etc.). (G) SNUN chemical will be used as a catalyst in composite matrix.	(S) Iron(1+), chloro[rel-1,5-dimethyl (1R,2S,4R,5S)-9,9-dihydroxy-3-methyl-2,4-di(2-pyridinyl-.kappa.N)-7-[(2-pyridinyl-.kappa.N)methyl]-3,7-diazabicyclo [3.3.1]nonane-1,5-dicarboxylate-.kappa.N3,.kappa.N7]-, chloride (1:1), (OC-6-63)-.
SN-18-0001A ...	18	08/23/2018	CBI .....	(S) Solution based (<1% concentration) Oxidation Catalyst for the Composite Market (Fiber glass: Insulation, Filtration media, Reinforcements, Optical Fibers), wood stain (Oxidation Catalyst for Composite industry ( <i>e.g.</i> , for application to gelcoat-type finished goods such as boats, bowling balls, shower stalls and bathtubs, etc.).	(S) Iron(1+), chloro[rel-1,5-dimethyl (1R,2S,4R,5S)-9,9-dihydroxy-3-methyl-2,4-di(2-pyridinyl-.kappa.N)-7-[(2-pyridinyl-.kappa.N)methyl]-3,7-diazabicyclo [3.3.1]nonane-1,5-dicarboxylate-.kappa.N3,.kappa.N7]-, chloride (1:1), (OC-6-63)-.
SN-18-0001A ...	20	10/16/2018	CBI .....	(S) Proposed New Generic Use name: Oxidation Catalyst for Composites New Proposed Use Description: (Solution) Oxidation Catalyst for the Composite Market (Fiber glass: Insulation, Filtration media, Reinforcements, Optical Fibers), (Oxidation Catalyst for Composite industry ( <i>e.g.</i> , for application to gelcoat-type finished goods such as boats, bowling balls, shower stalls and bathtubs, etc.).	(S) Iron(1+), chloro[rel-1,5-dimethyl (1R,2S,4R,5S)-9,9-dihydroxy-3-methyl-2,4-di(2-pyridinyl-.kappa.N)-7-[(2-pyridinyl-.kappa.N)methyl]-3,7-diazabicyclo [3.3.1]nonane-1,5-dicarboxylate-.kappa.N3,.kappa.N7]-, chloride (1:1), (OC-6-63)-.
SN-20-0003A ...	7	07/01/2020	CBI .....	(S) An anionic fluorosurfactant for main use (>98%) in firefighting foam concentrates such as AFFF (Aqueous Film Forming Foam) and AR-AFFF (Alcohol Resistant Aqueous Film Forming Foam), minor use (<2%) in coatings and ink applications.	(S) 1-Propanesulfonic acid, 2-methyl-2-[[1-oxo-3-[(3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl)thio]propyl]amino]-, sodium salt (1:1).
SN-20-0003A ...	8	07/07/2020	CBI .....	(S) An anionic fluorosurfactant for main use (>98%) in firefighting foam concentrates such as AFFF (Aqueous Film Forming Foam) and AR-AFFF (Alcohol Resistant Aqueous Film Forming Foam), for very minor use (<2%) in coatings and ink applications.	(S) 1-Propanesulfonic acid, 2-methyl-2-[[1-oxo-3-[(3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl)thio]propyl]amino]-, sodium salt (1:1).
SN-20-0005 .....	2	07/14/2020	Dover Chemical Corporation.	(S) Lubricant in metal-working fluids, Drilling mud additive, Plasticizer/flame retardant in textiles, Flame retardant in rubber compounds, Lubricants in grease and engine oils, in polymers.	(S) Alkanes, C21-34-branched and linear, chloro.
SN-20-0007 .....	1	07/21/2020	CBI .....	(S) A component of UV Curable Coatings and Printing Inks.	(S) 2-Propenoic acid, 1,1'-(3-methyl-1,5-pentenediyl) ester.

\* The term 'Approved' indicates that a submission has passed a quick initial screen ensuring all required information and documents have been provided with the submission prior to the start of the 90-day review period, and in no way reflects the final status of a complete submission review.

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs that have passed an initial screening by EPA during this period: The EPA case number assigned

to the NOC including whether the submission was an initial or amended submission, the date the NOC was received by EPA, the date of commencement provided by the submitter in the NOC, a notation of the

type of amendment (e.g., amendment to generic name, specific name, technical contact information, etc.) and chemical substance identity.

TABLE II—NOCs APPROVED \* FROM 07/01/2020 TO 07/31/2020

Case No.	Received date	Commencement date	If amendment, type of amendment	Chemical substance
P-15-0633 .....	06/30/2020	06/25/2020	N	(S) 1(2h)-naphthalenone,4-ethyloctahydro-8-methyl-
P-16-0326 .....	06/30/2020	06/25/2020	N	(S) Propanoic acid, 2,2-dimethyl-, 1-methyl-2-(1-methylethoxy)-2-oxoethyl ester.
P-16-0548 .....	07/09/2020	07/09/2020	N	(G) Triarylsulfonium salt.
P-17-0195 .....	07/20/2020	06/25/2020	N	(G) 1,3-propanediol,2-methylene-, substituted.
P-18-0009 .....	07/29/2020	07/28/2020	N	(G) Phosphonic acid, dimethyl ester, polymer with alkyl diols.
P-18-0260 .....	07/23/2020	07/21/2020	N	(G) Fatty acids, polymers with alkanolic acid and substituted carbomonocycle, peroxide-initiated, polymers with alkanolic acid esters and substituted carbomonocycle, ammonium salts.
P-18-0389 .....	07/02/2020	06/05/2020	N	(G) Alkenoic acid, alkyl-substituted, epoxy ester, polymer with alkyl alkenoate, alkene, and polylactide.
P-19-0064 .....	07/14/2020	07/10/2020	N	(G) 4,4'-methylenebis[2,6-dimethyl phenol] polymer with 2-(chloromethyl)oxirane, 1,4- benzyl diol, 2-methyl-2-propenoic acid, butyl 2-methyl 2-propenoate, ethyl 2-methyl 2-propenoate, and ethyl 2-propenoate, reaction products with 2-(dimethylamino) ethanol.
P-19-0068 .....	07/01/2020	06/11/2020	N	(G) 1,4-benzenedicarboxylic acid, polymer with diol, 5-amino-1,3,3-trimethylcyclohexanemethanamine, 1,2-ethanediol and urea.
P-20-0012 .....	07/07/2020	06/26/2020	N	(G) Polyol, polymer with alkyl diisocyanate, alkyl substituted heterocycle blocked.
P-20-0041 .....	07/01/2020	06/22/2020	N	(S) 1,3-benzenedicarboxylic acid, polymer with 3-methyl-1,5-pentanediol.
P-20-0042 .....	07/10/2020	06/30/2020	N	(G) Sulfonium, trisaryl-, 7,7-dialkyl-2-heteropolycyclic -1-alkanesulfonate (1:1)

\* The term 'Approved' indicates that a submission has passed a quick initial screen ensuring all required information and documents have been provided with the submission.

In Table III of this unit, EPA provides the following information (to the extent such information is not subject to a CBI claim) on the test information that has

been received during this time period: The EPA case number assigned to the test information; the date the test information was received by EPA, the

type of test information submitted, and chemical substance identity.

TABLE III—TEST INFORMATION RECEIVED FROM 07/01/2020 TO 07/31/2020

Case No.	Received date	Type of test information	Chemical substance
L-20-0140 ...	07/01/2020	Dust Explosivity Test Report .....	(G) Arylfurandione, [bis(trihaloalkyl)alkylidene]bis-, polymer with alkanediamine.
P-14-0712 ..	07/07/2020	Quarterly PCDD/F Test of PMN Substance using EPA Test Method 8290A.	(G) Plastics, wastes, pyrolyzed, bulk pyrolysate.
P-14-0712 ..	07/13/2020	Notice of Quarterly PCDD/F Test of PMN Substance using EPA Test Method 8290A.	(G) Plastics, wastes, pyrolyzed, bulk pyrolysate.
P-16-0093 ..	07/08/2020	Genetic Toxicity and Chromosomal Aberrations Assay	(S) 2-cyclohexen-1-one, 2-methyl-5-propyl-.
P-16-0543 ..	07/27/2020	Exposure Monitoring Report for June 2020 .....	(G) Halogenophosphoric acid metal salt.
P-16-0543 ..	06/25/2020	Exposure Monitoring Report for May 2020 .....	(G) Halogenophosphoric acid metal salt.
P-18-0027 ..	07/21/2020	Algal Toxicity Test (OCSPP Test Guideline 850.4500) and Daphnia Chronic Toxicity Test with 48-Hour Acute Immobilization Test (OCSPP Test Guideline 850.1300).	(G) 2-propenoic acid, 2-alkyl-, 2-(dialkylamino)alkyl ester, polymer with alpha-(2-alkyl-1-oxo-2-alken-1-yl)-omega-methoxypoly(oxy-1,2-alkanediyl).
P-18-0293 ..	07/01/2020	Oxidising Liquids Testing on a Sample of Chemilan L3000 XP.	(S) Propanedioic acid, 2-methylene-, 1,3-dihexyl ester.
P-18-0294 ..	07/01/2020	Oxidising Liquids Testing on a Sample of Chemilan H4000 XP.	(S) Propanedioic acid, 2-methylene-, 1,3-dicyclohexyl ester.
P-18-0294 ..	07/09/2020	Determination of Physico-Chemical Properties of Chemilan H4000 XP.	(S) Propanedioic acid, 2-methylene-, 1,3-dicyclohexyl ester.
P-20-0066 ..	07/02/2020	A Dietary Bioaccumulation Test in Gobiocypris rarus (OECD Test Guideline 305-III) and Daphnia Reproduction Test (OECD Test Guideline 211).	(G) 2-propenoic acid, 2-hydroxyethyl ester, reaction products with dialkyl hydrogen heterosubstituted phosphate and dimethyl phosphonate.



If you are interested in information that is not included in these tables, you may contact EPA's technical information contact or general information contact as described under **FOR FURTHER INFORMATION CONTACT** to access additional non-CBI information that may be available.

**Authority:** 15 U.S.C. 2601 *et seq.*

Dated: August 10, 2020.

**Pamela Myrick,**

*Director, Information Management Division,  
Office of Pollution Prevention and Toxics.*

[FR Doc. 2020-18707 Filed 8-25-20; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2017-0751; FRL-10012-61]

### Pesticide Registration Review; Interim Decisions for Several Pesticides; Notice of Availability

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of EPA's interim registration review decisions for the following chemicals: 2,4-DP-p, Aliphatic alcohols C6-C16, Alkylbenzene Sulfonates (ABS), *Bacillus pumilus*, Bromacil, Dimethyl Disulfide (DMDS), Fatty Acid Monoesters with Glycerol or Propanediol, Harpin Proteins, Linuron, Pyroxsulam, Thien carbazon-methyl (TCM).

#### SUPPLEMENTARY INFORMATION:

## I. General Information

### *Does this action apply to me?*

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the pesticide specific contact person listed under **FOR FURTHER INFORMATION CONTACT**: For pesticide specific information, contact: The Chemical Review Manager for the pesticide of interest identified in the Table in Unit IV.

For general information on the registration review program, contact: Melanie Biscoe, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (703) 305-7106; email address: [biscoe.melanie@epa.gov](mailto:biscoe.melanie@epa.gov).

## II. Background

Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the

Agency has completed interim decisions for all pesticides listed in the Table in Unit IV. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

## III. Authority

EPA is conducting its registration review of the chemicals listed in the Table in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

## IV. What action is the Agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's interim registration review decisions for the pesticides shown in the following table. The interim registration review decisions are supported by rationales included in the docket established for each chemical.

TABLE—REGISTRATION REVIEW INTERIM DECISIONS BEING ISSUED

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
2,4-DP-p Case Number 0294 .....	EPA-HQ-OPP-2013-0726	Ana Pinto, <a href="mailto:pinto.ana@epa.gov">pinto.ana@epa.gov</a> , (703) 347-8421.
Aliphatic alcohols, C6-C16, Case Number 4004	EPA-HQ-OPP-2016-0261	Susanne Cerrelli, <a href="mailto:cerrelli.susanne@epa.gov">cerrelli.susanne@epa.gov</a> , (703) 308-8077.
Alkylbenzene Sulfonates (ABS), Case Number 4006.	EPA-HQ-OPP-2013-0097	Erin Dandridge, <a href="mailto:dandridge.erin@epa.gov">dandridge.erin@epa.gov</a> , (703) 347-0185.
<i>Bacillus pumilus</i> , Case Number 6015 .....	EPA-HQ-OPP-2012-0857	Susanne Cerrelli, <a href="mailto:cerrelli.susanne@epa.gov">cerrelli.susanne@epa.gov</a> , (703) 308-8077.
Bromacil, Case Number 0041 .....	EPA-HQ-OPP-2012-0445	Ana Pinto, <a href="mailto:pinto.ana@epa.gov">pinto.ana@epa.gov</a> , (703) 347-8421.
Dimethyl Disulfide (DMDS), Case Number 7454	EPA-HQ-OPP-2013-0488	Rachel Eberius, <a href="mailto:eberius.rachel@epa.gov">eberius.rachel@epa.gov</a> , (703) 347-0492.
Fatty Acid Monoesters with Glycerol or Propanediol, Case Number 6016.	EPA-HQ-OPP-2017-0353	Bibiana Oe, <a href="mailto:oe.bibiana@epa.gov">oe.bibiana@epa.gov</a> , (703) 347-8162.
Harpin Proteins, Case Number 6010 .....	EPA-HQ-OPP-2012-0641	Michael Glikes, <a href="mailto:glikes.michael@epa.gov">glikes.michael@epa.gov</a> , (703) 305-6231.
Linuron, Case Number 0047 .....	EPA-HQ-OPP-2010-0228	Rachel Eberius, <a href="mailto:eberius.rachel@epa.gov">eberius.rachel@epa.gov</a> , (703) 347-0492.
Pyroxsulam, Case Number 7275 .....	EPA-HQ-OPP-2019-0035	Srijana Shrestha, <a href="mailto:shrestha.srijana@epa.gov">shrestha.srijana@epa.gov</a> , (703) 305-6471.
Thien carbazon-methyl (TCM), Case Number 7276.	EPA-HQ-OPP-2019-0481	Matthew B. Khan, <a href="mailto:khan.matthew@epa.gov">khan.matthew@epa.gov</a> , (703) 347-8613.

The proposed interim registration review decisions for the chemicals in the table above were posted to the docket and the public was invited to

submit any comments or new information. EPA addressed the comments or information received during the 60-day comment period for

the proposed interim decisions in the discussion for each pesticide listed in the table. Comments from the 60-day comment period that were received may

or may not have affected the Agency's interim decision. Pursuant to 40 CFR 155.58(c), the registration review case docket for the chemicals listed in the Table will remain open until all actions required in the interim decision have been completed.

Background on the registration review program is provided at: <http://www.epa.gov/pesticide-reevaluation>.

**Authority:** 7 U.S.C. 136 *et seq.*

Dated: July 28, 2020.

**Mary Reaves,**

*Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.*

[FR Doc. 2020-18711 Filed 8-25-20; 8:45 am]

**BILLING CODE 6560-50-P**

## FARM CREDIT ADMINISTRATION

### Privacy Act of 1974; System of Records

**AGENCY:** Farm Credit Administration.

**ACTION:** Notice of a Modified System of Records.

**SUMMARY:** Pursuant to the provisions of the Privacy Act of 1974, notice is hereby given that the Farm Credit Administration (FCA or Agency) is amending an existing system of records, FCA-11—Litigation and Administrative Adjudication Files—FCA.

**DATES:** You may send written comments on or before September 25, 2020. FCA filed an amended System Report with Congress and the Office of Management and Budget on July 20, 2020. This notice will become effective without further publication on October 5, 2020 unless modified by a subsequent notice to incorporate comments received from the public.

**ADDRESSES:** We offer a variety of methods for you to submit your comments. For accuracy and efficiency, commenters are encouraged to submit comments by email or through the FCA's website. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we are no longer accepting comments submitted by fax. Regardless of the method you use, please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- **Email:** Send us an email at [reg-comm@fca.gov](mailto:reg-comm@fca.gov).
- **FCA website:** <http://www.fca.gov>. Click inside the "I want to. . ." field, near the top of the page; select "comment on a pending regulation" from the dropdown menu; and click

"Go." This takes you to an electronic public comment form.

- **Mail:** David Grahn, Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.

You may review copies of comments we receive at our office in McLean, Virginia, or from our website at <http://www.fca.gov>. Once you are in the website, click inside the "I want to. . ." field, near the top of the page; select "find comments on a pending regulation" from the dropdown menu; and click "Go." This will take you to the Comment Letters page, where you can select the SORN for which you would like to read public comments. The comments will be posted as submitted but, for technical reasons, items such as logos and special characters may be omitted. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove email addresses to help reduce internet spam.

**FOR FURTHER INFORMATION CONTACT:**

Autumn R. Agans, Privacy Act Officer, Farm Credit Administration, McLean, Virginia 22102-5090, (703) 883-4020, TTY (703) 883-4019.

**SUPPLEMENTARY INFORMATION:** The FCA-11—Litigation and Administrative Adjudication Files—FCA system is used to track litigation matters and to draft legal opinions and litigation reports. The Agency is updating the notice to make administrative updates as well as non-substantive changes to conform to the SORN template requirements prescribed in the Office of Management and Budget (OMB) Circular No. A-108. This publication satisfies the requirement of the Privacy Act of 1974 that agencies publish a system of records notice in the **Federal Register** when there is a revision, change, or addition to the system of records. The substantive changes and modifications to the currently published version of FCA-11—Litigation and Administrative Adjudication Files—FCA include:

1. Identifying the records in the system as unclassified.
2. Revising the safeguards section to reflect updated cybersecurity guidance and practices.
3. Updating the purposes of the system.
4. Updating the categories of records in the system.

Additionally, non-substantive changes have been made to the notice to align with the latest guidance from OMB.

The amended system of records is: FCA-11—Litigation and Administrative

Adjudication Files—FCA. As required by 5 U.S.C. 552a(r) of the Privacy Act, as amended, FCA sent notice of this proposed system of records to the Office of Management and Budget, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate. The notice is published in its entirety below.

**SYSTEM NAME AND NUMBER:**

FCA-11—Litigation and Administrative Adjudication Files—FCA.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.

**SYSTEM MANAGER:**

General Counsel, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

12 U.S.C. 2243, 2252; 44 U.S.C. 3101.

**PURPOSES OF THE SYSTEM:**

We use information in this system of records to actively manage and engage in litigation and administrative matters, track litigation and administrative matters, and to draft legal opinions and litigation reports.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Parties involved in litigation or administrative adjudication with FCA or litigation in which FCA has an interest, including: (a) Administrative proceedings before the FCA (*e.g.*, personnel actions, whistleblower cases), (b) Federal or state court cases in which FCA is a party, (c) litigation in which FCA is participating as an amicus curiae, (d) a claim and/or subsequent litigation under the Federal Tort Claims Act, (e) third-party litigation in which FCA is in some way involved, and (f) other cases involving issues of concern to FCA, including those brought by other law enforcement agencies, Federal financial regulatory agencies, and private parties.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system may contain: (1) Documents comprising or included in the case record, such as briefs, affidavits, reports of investigation, motions, pleadings, orders, and correspondence; and (2) other

documents, memoranda, and correspondence related to the action.

#### RECORD SOURCE CATEGORIES:

Person to whom the record applies, current and former FCA employees, witnesses, participants, attorneys, others working on behalf of FCA, U.S. Attorneys, U.S. District Courts, parties to the proceedings, or other Federal, State, or local agencies.

#### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

See the "General Statement of Routine Uses". Disclosure to consumer reporting agencies: None.

#### POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in file folders and electronically in one or more computerized databases.

#### POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by name.

#### POLICIES AND PROCEDURES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained in accordance with retention schedules approved by the National Archives and Records Administration and with the FCA Comprehensive Records Schedule.

#### ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

FCA implements multiple layers of security to ensure access to records is limited to those with a need-to-know in support of their official duties. Records are physically safeguarded in a secured environment using locked file rooms, file cabinets, or locked offices and other physical safeguards. Computerized records are safeguarded through use of user roles, passwords, firewalls, encryption, and other information technology security measures. Only the personnel with a need-to-know in support of their duties have access to the records.

#### RECORD ACCESS PROCEDURES:

To obtain a record, contact: Privacy Act Officer, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, as provided in 12 CFR part 603.

#### CONTESTING RECORD PROCEDURES:

Direct requests for amendments to a record to: Privacy Act Officer, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, as provided in 12 CFR part 603.

#### NOTIFICATION PROCEDURE:

Address inquiries about this system of records to: Privacy Act Officer, Farm

Credit Administration, McLean, VA 22102-5090.

#### EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

#### HISTORY:

**Federal Register** Vol. 64, No. 100/ Tuesday, May 25, 1999 page 21875.  
Vol. 70, No. 183/Thursday, September 22, 2005, page 55621.

Dated: August 20, 2020.

**Dale Aultman,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 2020-18706 Filed 8-25-20; 8:45 am]

**BILLING CODE 6705-01-P**

## FEDERAL MARITIME COMMISSION

### Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreements to the Secretary by email at [Secretary@fmc.gov](mailto:Secretary@fmc.gov), or by mail, Federal Maritime Commission, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website ([www.fmc.gov](http://www.fmc.gov)) or by contacting the Office of Agreements at (202)-523-5793 or [tradeanalysis@fmc.gov](mailto:tradeanalysis@fmc.gov).

*Agreement No.:* 201345.

*Agreement Name:* CNCO/Matson Pacific Islands Vessel Sharing Agreement.

*Parties:* The China Navigation Co. Pte Ltd. and Matson Navigation Company, Inc.

*Filing Party:* David Tubman; Matson Navigation Company, Inc.

*Synopsis:* The Agreement authorizes the parties to establish a new service in the South Pacific island trades utilizing vessels contributed, and independently operated, by each of the parties.

*Proposed Effective Date:* 8/18/2020.

*Location:* <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/32506>.

*Agreement No.:* 012410-003.

*Agreement Name:* WWOcean/Hyundai Glovis Space Charter Agreement.

*Parties:* Wallenius Wilhelmsen Ocean AS and Hyundai Glovis Co., Ltd.

*Filing Party:* Wayne Rohde; Cozen O'Connor.

*Synopsis:* The amendment expands the geographic scope of the Agreement to cover all U.S. trades. It also updates

the name and address of WW Ocean and the address of Hyundai Glovis. It also restates the Agreement.

*Proposed Effective Date:* 10/2/2020.

*Location:* <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/1874>.

*Agreement No.:* 011284-082.

*Agreement Name:* Ocean Carrier Equipment Management Association.

*Parties:* Maersk A/S and Hamburg Sud (acting as a single party); CMA CGM S.A., APL Co. Pte. Ltd., and American President Lines, Ltd. (acting as a single party); COSCO SHIPPING Lines Co., Ltd.; Evergreen Line Joint Service Agreement; Ocean Network Express Pte. Ltd.; Hapag-Lloyd AG and Hapag-Lloyd USA LLC (acting as a single party); HMM Co., Ltd.; Zim Integrated Shipping Services; MSC Mediterranean Shipping Company S.A.; and Wan Hai Lines Ltd.

*Filing Party:* Jeffrey Lawrence and Donald Kassilke; Cozen O'Connor.

*Synopsis:* The amendment deletes Orient Overseas Container Line Limited as a party to the Agreement.

*Proposed Effective Date:* 8/19/2020.

*Location:* <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/1560>.

Dated: August 21, 2020.

**Rachel Dickon,**

*Secretary.*

[FR Doc. 2020-18725 Filed 8-25-20; 8:45 am]

**BILLING CODE 6730-02-P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may

express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than September 10, 2020.

*A. Federal Reserve Bank of Chicago* (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *Graham A. Werner Descendants Trust, Graham A. Werner, as trustee, Graham A. and Barbara B. Werner Revocable Trust, Graham A. Werner and Barbara B. Werner, as trustees, Barbara B. Werner, all of Naples, Florida; Michael D. Werner Declaration of Trust, Michael D. Werner as trustee, both of Key West, Florida; Lisbeth W. Bax Stock Trust, Lisbeth Bax, as trustee, Jeffrey Werner, all of Appleton, Wisconsin; David Werner, Neenah, Wisconsin; Ann Kreiter, Oak Park, Illinois; Gregory Werner, Barrington, Illinois; Jonathan Bax, Louisville, Kentucky; Ryan Werner Bille, Eden Prairie, Minnesota; Judson Werner, Waupun, Wisconsin; Brooke Werner, Nathan Werner, both of Waupaca, Wisconsin; Hunt Werner, Charlotte, North Carolina; Andrew Bax, Pensacola, Florida; and Lindsey Bax, Huntsville, Alabama; as a group acting in concert, to join the Werner Family Control Group and retain voting shares of First State Bancshares, Inc., and thereby indirectly retain voting shares of First State Bank, both of New London, Wisconsin.*

*B. Federal Reserve Bank of Minneapolis* (Chris P. Wangen, Assistant Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. *The Ella Elizabeth Meyerson 2008 Irrevocable GST Trust dated December 22, 2008, Atwater, Minnesota; Ella Meyerson and David A. Gutzke, as trustees, both of Minneapolis, Minnesota; the Ella E. Meyerson Revocable Trust, u/a/d September 23, 2011, and Ella Meyerson, as trustee, both of Minneapolis, Minnesota; to retain and acquire voting shares of Cattail Bancshares, Inc., Atwater, Minnesota, and thereby retain and acquire voting shares of Harvest Bank, Kimball, Minnesota, and Citizens State Bank of Waverly (Incorporated), Waverly, Minnesota, and, as a group acting in concert, to join the Meyerson family shareholder group, which controls voting shares of Cattail Bancshares, Inc.*

*C. Federal Reserve Bank of St. Louis* (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166-2034. Comments can also be sent electronically to

*Comments.applications@stls.frb.org;*

1. *Aaron C. Espinoza, individually and as owner of ACE Investments LLC, Newburg, Missouri; and Kyle Espinoza, Mount Juliet, Tennessee, as members of a family control group that includes Charles G. Bollinger, Hernando, Florida (in his capacities as the trustee of the Charles G. Bollinger Revocable Trust, Rolla, Missouri, Velma Bollinger Marital Trust, and general partner of the Faith Limited Partnership, both of Springfield, Missouri); to retain voting shares of Newburg Insurance Agency, Inc., Rolla, Missouri.*

Board of Governors of the Federal Reserve System, August 21, 2020.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2020-18782 Filed 8-25-20; 8:45 am]

**BILLING CODE P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th

Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than September 25, 2020.

*A. Federal Reserve Bank of Kansas City* (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. *First York Ban Corp, York, Nebraska; to acquire Tilden Bancshares, Inc., and thereby indirectly acquire The Tilden Bank, both of Tilden, Nebraska. In addition, Cornerstone Bank, York, Nebraska, to become a bank holding company for a moment in time by acquiring Tilden Bancshares, Inc., and thereby indirectly acquiring The Tilden Bank.*

Board of Governors of the Federal Reserve System, August 21, 2020.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2020-18783 Filed 8-25-20; 8:45 am]

**BILLING CODE 6210-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[60Day-20-20PR; Docket No. CDC-2020-0074]

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Improving Safety of Human-Robot Interaction. The purpose of this data collection is to gather experimental information in the CDC Division of Safety Research Virtual Reality Laboratory on the effects of robot characteristics (e.g. size, movement speed, and movement trajectory) on human behavior, perceived safety, mental workload, and trust. This information will be used to improve the design and modeling of robots and robot functions to reduce human-robot collisions as a result of improved robot

navigation, reduced human workers' workload, and increased trust.

**DATES:** CDC must receive written comments on or before October 26, 2020.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC-2020-0074 by any of the following methods:

- *Federal eRulemaking Portal:*

*Regulations.gov.* Follow the instructions for submitting comments.

- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS-D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

*Please note:* Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS-D74, Atlanta, Georgia 30329; phone: 404-639-7570; Email: [omb@cdc.gov](mailto:omb@cdc.gov).

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

5. Assess information collection costs.

### Proposed Project

Improving Safety of Human-Robot Interaction—NEW—National Institute of Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

### Background and Brief Description

The mission of the National Institute for Occupational Safety and Health (NIOSH) is to promote safety and health at work for all people through research and prevention. NIOSH has initiated a study among manufacturing workers to improve safety of workers that work in close proximity with robots. Study results will be used to improve safety standards and lead to better design guidelines for industrial robots.

Rapid growth of advanced collaborative and mobile robots warrants investigation on safe human-robot interaction for their potential injurious energy transmission from a robot to a worker. Traditional safety measures for industrial robots, such as protective barriers, are no longer valid for the emerging collaborative and mobile robots. Physical contacts between human workers and robots are inevitable and even desired when they share a common workspace or work directly with each other under

collaborative operations. Therefore, NIOSH is proposing a study to evaluate the effects of different characteristics of robots on human behaviors, perceived safety, workload, and trust.

The study will take advantage of virtual reality technology to simulate human-robot interaction during data collection sessions. Participants will conduct two related experiments that will involve performing simulated warehouse tasks (e.g. loading/unloading boxes from shelves) in a virtual reality laboratory. Participants will interact with a mobile robot in the first experiment and a collaborative robot arm in the second. They will wear glasses that will allow them to see virtual 3D images of the robots and other objects in the environment. During each experiment task, we will use motion capture technology to track the movement and location of the participants and the virtual robots. This will allow us to track movement speed and separation distance from the virtual robots. After each experiment task, we will administer three questionnaires to the participants that will ask them about their perceived safety, mental workload, and trust in the robots. We will analyze how these measures change based on the virtual robot's operating speed, size, and movement trajectory.

Data collections will occur at the NIOSH facility in Morgantown, West Virginia. The target study population will be workers who currently work or had worked in the manufacturing industry, with varying job experiences. The burden table below accounts for 111 respondents over a three-year data collection period. Respondents will complete all forms only once, besides the Virtual Reality Sickness Questionnaire, which will be administered at the beginning and end of the data collection, and the three questionnaires (NASA Task Load Index, Perceived Safety Questionnaire, and Robot Trust Questionnaire), which will be administered after each of the 63 combined experiment trials. The total estimated burden hours are 217. There are no costs to the respondents other than their time.

### ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Manufacturing Workers ..	Simulator Sickness Susceptibility Questionnaire	37	1	1/60	1
	Consent Form .....	37	1	10/60	6
	Participant Data Collection Form .....	37	1	1/60	1
	Virtual Reality Sickness Questionnaire .....	37	2	1/60	1

## ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
	Robot Experience Questionnaire .....	37	1	6/60	4
	Actual Experiment 1—Mobile Robot .....	37	1	1.16	43
	Actual Experiment 2—Collaborative Robot .....	37	1	1.16	43
	NASA Task Load Index .....	37	63	1/60	39
	Perceived Safety Questionnaire .....	37	63	1/60	39
	Robot Trust Questionnaire .....	37	63	1/60	39
Total .....	.....	.....	.....	.....	217

Jeffrey M. Zirger,

Lead, Information Collection Review Office,  
Office of Scientific Integrity, Office of Science,  
Centers for Disease Control and Prevention.

[FR Doc. 2020–18677 Filed 8–25–20; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–21]

#### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments on the collection(s) of information must be received by the OMB desk officer by September 25, 2020.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html>.

2. Call the Reports Clearance Office at (410) 786–1326.

**FOR FURTHER INFORMATION CONTACT:**

William Parham at (410) 786–4669.

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term “collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes

the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Withholding Medicare Payments to Recover Medicaid Overpayments and Supporting Regulations in 42 CFR 447.31; *Use:* Certain Medicaid providers that are subject to offsets for the collection of Medicaid overpayments may terminate or substantially reduce their participation in Medicaid, leaving the state Medicaid agency unable to recover the amounts due. Recovery procedures allow for determining the amount of overpayments and offsetting the overpayments by withholding the provider's Medicare payments. To effectuate the withholding, the state agency must provide their respective CMS regional office with certain documentation that identifies the provider and the Medicaid overpayment amount. The agency must also demonstrate that the provider was notified of the overpayment and that demand for the overpayment was made. An opportunity to appeal the overpayment determination must be afforded to the provider by the Medicaid state agency. Lastly, Medicaid state agencies must notify CMS when to terminate the withholding; *Form Number:* CMS–R–21 (OMB control number: 0938–0287); *Frequency:* Occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 54; *Total Annual Responses:* 27; *Total Annual Hours:* 81. (For policy questions regarding this collection contact Stuart Goldstein at 410–786–0694.)

Dated: August 21, 2020.

**William N. Parham, III,**

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2020–18781 Filed 8–25–20; 8:45 am]

BILLING CODE 4120–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### Office of Human Services Emergency Preparedness and Response Statement of Organization, Functions, and Delegations of Authority

**AGENCY:** Administration for Children and Families, Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** Statement of Organizations, Functions, and Delegations of Authority.

The Administration for Children and Families (ACF) is realigning the Office of Human Services Emergency Preparedness and Response (OHSEPR), including the U.S. Repatriation Program. OHSEPR will be a direct report to the Principal Deputy Assistant Secretary (PDAS) for the ACF. The Division of Emergency Policy and Planning will be realigned into the following Divisions:

1. Division of Operations;
2. Division of Intelligence;
3. Division of Planning, Training, and Exercises.

Lastly, it changes the reporting relationship from a direct report to the Deputy Assistant Secretary for External Affairs to a direct report to the PDAS for ACF.

**FOR FURTHER INFORMATION CONTACT:**

Natalie Grant, Director for OHSEPR, (202) 205-7843, 330 C Street SW, Washington, DC 20201.

**SUPPLEMENTARY INFORMATION:** This notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (HHS), ACF, as follows: Chapter KA, Immediate Office of the Assistant Secretary as last amended in 80 FR 63555-63558, October 20, 2015; Chapter KW, Office of Human Services Emergency Preparedness and Response as last amended in 80 FR 63555-63558, October 20, 2015; and Chapter KW, Office of Human Services Emergency Preparedness and Response as last amended in 83 FR 40517-40519, August 15, 2018.

I. Under KW, The Office of Human Services Emergency Preparedness and Response, delete KW.00 Mission in its entirety and replace with:

*KW.00 Mission.* The Office of Human Services Emergency Preparedness and Response (OHSEPR) promotes resilience of vulnerable individuals, children, families, and communities impacted by

disasters and public health emergencies. OHSEPR provides disaster human services expertise to ACF grantees, partners, and stakeholders during preparedness, response, and recovery operations for emergency and disaster events. Working closely with ACF Program Offices, OHSEPR coordinates ACF's planning, policy, and operations for emergency and disaster preparedness, response, and recovery. OHSEPR supports fulfillment of disaster human services within the integrated response and recovery operations of HHS. OHSEPR administers the Disaster Human Services Case Management (DHSCM) Program and the U.S. Repatriation Program. OHSEPR manages the ACF Continuity of Operation Plan, which directs how ACF's mission essential functions (MEFs) are performed during a wide range of disruptions or emergencies.

II. Under KW, Office of Human Services Emergency Preparedness and Response, delete KW.10 Organization in its entirety and replace with:

*KW.10 Organization.* OHSEPR is headed by a Director, who reports to the Principal Deputy Assistant Secretary (PDAS) for ACF, and consists of: Office of the Director (KWA) Division of Operations (KWB) Division of Intelligence (KWC) Division of Planning, Training, and Exercises (KWD)

III. Under KW, Office of Human Services Emergency Preparedness and Response, delete KW.20 Functions in its entirety and replace with:

*KW.20 Functions.* A. The Office of the Director is responsible for the administrative oversight and strategic direction of all OHSEPR programs, projects, and activities. The Office serves as advisor to the Assistant Secretary for Children and Families and the PDAS in the areas of emergency management and disaster human services. The Office of the Director leads preparedness efforts to ensure that OHSEPR is positioned to lead disaster human services operations on behalf of ACF and the Department; coordinates with lead federal and non-federal emergency management, public health, and human service partners; and oversees OHSEPR's disaster response and recovery operations. The Deputy Director reports to the Director and represents the Director in an "alter-ego" capacity to carry out the responsibilities and oversight of the OHSEPR. The Deputy Director oversees the Division of Operations, Division of Intelligence, and Division of Planning, Training, and Exercise.

The Office of the Director manages budgetary and legal matters affecting

OHSEPR, administers human resources and program evaluation functions, and ensures alignment of activities by all OHSEPR divisions with the Director's strategy and applicable laws, policies, doctrines, and frameworks related to the provision of HHS and ACF's disaster human services, repatriation, and business continuity operations. The Office of the Director develops guidance, legislative proposals, and routine interpretations of policy.

The Office of the Director provides administrative, grant-making, financial management, budget, and contract officer representative (COR) direction and support to OHSEPR. Staff responsibilities include, but are not limited to: (1) Serving as the Executive Secretariat for OHSEPR, including managing correspondence, correspondence systems, and public requests; (2) coordinating human resources activities; and (3) as appropriate, development of internal policies and procedures relating to these activities. The Office of the Director supports the implementation of strategic initiatives and oversees communications for the offices, including responses to media and Congressional inquiries in coordination through ACF's Office of Communications and Office of Legislation and Budget.

B. The Division of Operations is responsible for leading ACF's disaster human services operations in response to emergencies, major disasters, public health emergencies, and the repatriation of U.S. citizens and their dependents. Deployable missions may include the DHSCM Program, the U.S. Repatriation Program missions, and ACF human services subject matter experts and staffing assets for incident planning, response, and recovery. This Division works closely with emergency management, public health, and human service federal and non-federal partners.

The DHSCM Program supports states, tribes, and territories in establishing the capacity to coordinate and provide disaster case management services. This Division maintains the capability to deploy DHSCM teams upon activation by the Director. The Division administers an electronic case record management system to provide DHSCM services in accordance with data management laws and regulations.

The U.S. Repatriation Program provides temporary assistance to U.S. citizens and their dependents returning to the United States by the Department of State as authorized under Section 1113 of the Social Security Act and Public Law 86-571, 24 U.S.C. 321-329, and other applicable regulations and



executive orders. Temporary assistance includes transportation, shelter, medical care, and other goods and services. This Division works closely with states, the Department of State, and other federal and non-federal partners to execute mission operations and provide support during incidents.

This Division manages capabilities for other operations, including deployment and management of requested human services subject matter experts and response and recovery staffing assets; coordinates ACF support for federal emergency missions; and liaises with federal interagency and other partners in response and recovery.

C. The Division of Intelligence is responsible for maintaining situational awareness of developing and no-notice incidents, monitoring conditions that may prompt the repatriation of U.S. citizens back to the United States, coordinating information management needs of disaster human services response and recovery operations, and conducting threat assessments in response to emergencies, major disasters, public health emergencies in order to identify impacts to ACF grantees, human services providers, and vulnerable communities.

D. The Division of Planning, Training, and Exercises is responsible for administering OHSEPR's planning activities to support readiness of operations. This Division carries out "steady state" activities to ensure readiness of deployable and non-deployable assets and programs, including the development of plans, guides, procedures, training, exercises, and staffing assets. This Division ensures human service impacts from disasters affecting ACF programs and human services providers are addressed in HHS-wide and government-wide emergency planning and policymaking. This Division works closely with ACF programs, grantees and stakeholders, HHS operating divisions, federal human service programs, and state and local human service programs.

The Division is responsible for coordinating the development and currency of ACF Continuity of Operations Plans (COOP) as required by the Presidential Policy Directive 40 (PPD-40), National Continuity Policy, and as directed by the Administrator of FEMA. This Division ensures the COOP meets established continuity program and planning requirements for executive departments and agencies, and contains defined elements outlined in established frameworks, requirements, and processes.

IV. Under Chapter KA, Office of the Assistant Secretary for Children and

Families, delete KA.20 Functions, Paragraph A in its entirety and replace with the following:

*KA.20 Functions.* A. The Office of the Assistant Secretary for Children and Families is responsible to the Secretary for carrying out ACF's mission and provides executive supervision of the major components of ACF. These responsibilities include providing executive leadership and direction to plan and coordinate ACF program activities to ensure their effectiveness; approving instructions, policies, publications, and grant awards issued by ACF; and representing ACF in relationships with governmental and non-governmental organizations. The Principal Deputy Assistant Secretary serves as an alter ego to the Assistant Secretary for Children and Families on program matters and acts in the absence of the Assistant Secretary for Children and Families. The Chief of Staff advises the Assistant Secretary for Children and Families and provides executive leadership and direction to the operations of ACF. The Deputy Assistant Secretary for External Affairs provides executive leadership and direction to the Office of Regional Operations. The Deputy Assistant Secretary for Early Childhood Development serves as a key liaison and representative to the Department for early childhood development on behalf of the Assistant Secretary, ACF, and to other agencies across the government on behalf of the Department. The Deputy Assistant Secretary for Policy has responsibility for cross-program coordination of ACF initiatives, including efforts to promote interoperability and program integration.

V. Continuation of Policy. Except as inconsistent with this reorganization, all statements of policy and interpretations with respect to organizational components affected by this notice within ACF, heretofore issued and in effect on this date of this reorganization, are continued in full force and effect.

VI. Delegation of Authority. All delegations and re-delegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further re-delegations, provided they are consistent with this reorganization.

VII. Funds, Personnel, and Equipment. Transfer of organizations and functions affected by this reorganization shall be accompanied in each instance by direct and support funds, positions, personnel, records, equipment, supplies, and other resources.

This reorganization will be effective upon date of signature.

Dated: August 20, 2020.

**Linda Hitt,**

*Certifying Officer.*

[FR Doc. 2020-18678 Filed 8-25-20; 8:45 am]

**BILLING CODE 4184-34-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### Office on Trafficking in Persons; Notice of Meeting

**AGENCY:** Office on Trafficking in Persons, Administration for Children and Families (ACF), HHS.

**ACTION:** Notice of meeting; call for public comments on strategies to engage stakeholders to improve the Nation's response to the sex trafficking of children and youth.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the Federal Advisory Committee Act (FACA) and the Preventing Sex Trafficking and Strengthening Families Act, that a meeting of the National Advisory Committee on the Sex Trafficking of Children and Youth in the United States (Committee) will be held on September 17, 2020. The purpose of the meeting is for the Committee to discuss the dissemination of its State Self-Assessment Survey, as well as its interim report on recommended best practices for States to follow to combat the sex trafficking of children and youth based on multidisciplinary research and promising, evidence-based models and programs.

The members of the Committee request examples and comments from the public to inform their work. The Committee requests input on strategies to engage stakeholders across states that relate to the Committee's recommendations in the interim report as well as strategies to support states as they complete the State Self-Assessment. Please email your examples and/or comments to [NAC@nhhtac.org](mailto:NAC@nhhtac.org) with the subject "NAC Comments" as soon as possible and before September 1.

**DATES:** The meeting will be held on September 17, 2020.

**ADDRESSES:** The meeting will be held virtually. Please register for this event online at: <https://www.acf.hhs.gov/otip/resource/nacagenda0920>.

**FOR FURTHER INFORMATION CONTACT:** Katherine Chon (Designated Federal



Officer) at [EndTrafficking@acf.hhs.gov](mailto:EndTrafficking@acf.hhs.gov) or (202) 205–5778 or 330 C Street SW, Washington, DC 20201. Additional information is available at <https://www.acf.hhs.gov/otip/partnerships/the-national-advisory-committee>.

**SUPPLEMENTARY INFORMATION:** The formation and operation of the Committee are governed by the provisions of Public Law 92–463, as amended (5 U.S.C. App. 2), which sets forth standards for the formation and use of federal advisory committees.

**Purpose of the Committee:** The purpose of the Committee is to advise the Secretary and the Attorney General on practical and general policies concerning improvements to the nation's response to the sex trafficking of children and youth in the United States. HHS established the Committee pursuant to Section 121 of the Preventing Sex Trafficking and Strengthening Families Act of 2014 (Pub. L. 113–183).

**Tentative Agenda:** The agenda can be found at <https://www.acf.hhs.gov/otip/partnerships/the-national-advisory-committee>. To submit written statements, email [NAC@acf.hhs.gov](mailto:NAC@acf.hhs.gov) by September 1, 2020. Please include your name, organization, and phone number. More details on these options are below.

**Public Accessibility to the Meeting:** Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of space, this meeting is open to the public virtually.

**Written Statements:** Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public may submit written statements in response to the stated agenda of the meeting or to the committee's mission in general. Organizations with recommendations on strategies to engage states and stakeholders are encouraged to submit their comments or resources (hyperlinks preferred). Written comments or statements received after September 1, 2020, may not be provided to the Committee until its next meeting.

**Verbal Statements:** Pursuant to 41 CFR 102–3.140d, the Committee is not obligated to allow a member of the public to speak or otherwise address the Committee during the meeting. Members of the public are invited to provide verbal statements during the Committee meeting only at the time and manner described in the agenda. The request to speak should include a brief statement of the subject matter to be addressed and should be relevant to the stated agenda of the meeting or the Committee's mission in general.

**Minutes:** The minutes of this meeting will be available for public review and

copying within 90 days at: <https://www.acf.hhs.gov/otip/partnerships/the-national-advisory-committee>.

Dated: August 20, 2020.

**Linda Hitt,**

*ACF/ES Certifying Officer.*

[FR Doc. 2020–18674 Filed 8–25–20; 8:45 am]

**BILLING CODE 4184–40–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA–2020–N–0982]

#### Joint Meeting of the Drug Safety and Risk Management Advisory Committee and the Anesthetic and Analgesic Drug Products Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

**AGENCY:** Food and Drug Administration, Health and Human Services (HHS).

**ACTION:** Notice; establishment of a public docket; request for comments.

**SUMMARY:** The Food and Drug Administration (FDA) announces a forthcoming public advisory committee joint meeting of the Drug Safety and Risk Management Advisory Committee and the Anesthetic and Analgesic Drug Products Advisory Committee. The general function of the committees is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

**DATES:** The meeting will be held on September 10, 2020, from 9 a.m. to 5 p.m. Eastern Time and September 11, 2020, from 9 a.m. to 5 p.m. Eastern Time.

**ADDRESSES:** Please note that due to the impact of this COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. Answers to commonly asked questions about FDA advisory committee meetings may be accessed at: <https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm>.

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2020–N–0982. The docket will close on October 13, 2020. Submit either electronic or written comments on this public meeting by October 13, 2020. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before October 13, 2020. The <https://>

[www.regulations.gov](https://www.regulations.gov) electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of October 13, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before September 4, 2020, will be provided to the committees. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

#### Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

#### Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked, and

identified, as confidential, if submitted as detailed in “Instructions.”

**Instructions:** All submissions received must include the Docket No. FDA–2020–N–0982 for “Joint Meeting of the Drug Safety and Risk Management Advisory Committee and the Anesthetic and Analgesic Drug Products Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.” Received comments, those filed in a timely manner (see the **ADDRESSES** section), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

**Docket:** For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

**FOR FURTHER INFORMATION CONTACT:**

Philip Bautista, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: [DSaRM@fda.hhs.gov](mailto:DSaRM@fda.hhs.gov), or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA’s website at <https://www.fda.gov/AdvisoryCommittees/default.htm> and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

**SUPPLEMENTARY INFORMATION:**

**Agenda:** The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing platform. The committees will discuss the results of required postmarketing studies (Postmarketing Requirements 3051–1, 3051–2, 3051–3, and 3051–4) that evaluated the effect of the reformulation of OXYCONTIN (oxycodone hydrochloride extended-release tablets, manufactured by Purdue Pharma L.P., NDA 022272) on abuse, misuse, and fatal and non-fatal overdose, associated with OXYCONTIN. The committees will discuss whether these studies, in concert with other information from the published literature, have demonstrated that the reformulated OXYCONTIN product has resulted in a meaningful reduction in these outcomes. The committees will also discuss the broader public health impact of OXYCONTIN’s reformulation.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available on FDA’s website at the time of the advisory committee meeting. Background material and the link to the online teleconference meeting room will be available at <https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm>. Scroll down to the appropriate advisory committee meeting link. The meeting will include slide presentations with audio components to allow the presentations of materials in

a manner that most closely resembles an in-person advisory committee meeting.

**Procedure:** Interested persons may present data, information, or views, orally or in writing, on issues pending before the committees. All electronic and written submissions submitted to the Docket (see the **ADDRESSES** section) on or before September 4, 2020, will be provided to the committees. Oral presentations from the public will be scheduled between approximately 12 noon and 2 p.m. on September 11, 2020. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or September 2, 2020. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by September 3, 2020.

For press inquiries, please contact the Office of Media Affairs at [fdaoma@fda.hhs.gov](mailto:fdaoma@fda.hhs.gov) or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Philip Bautista (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at <https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm> for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 19, 2020.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2020–18752 Filed 8–25–20; 8:45 am]

**BILLING CODE 4164–01–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Review and Revision of the Screening Framework Guidance for Providers of Synthetic Double-Stranded DNA**

**AGENCY:** Office of the Secretary, Assistant Secretary for Preparedness and Response (ASPR), Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** Synthetic biology is a multidisciplinary field of research that involves the design, modification, and creation of biological systems and holds broad promise to advance both basic and applied research in areas ranging from materials science to molecular medicine. However, synthetic nucleic acids and associated technologies may also pose risks if misused. To reduce the risk that individuals with ill intent may exploit the application of nucleic acid synthesis technology to obtain genetic material derived from or encoding Select Agents and Toxins and, as applicable, agents on the Export Administration Regulations' (EAR's) Commerce Control List (CCL), the U.S. Government issued guidance in 2010 providing a framework for screening synthetic double-stranded DNA (dsDNA). This document, the *Screening Framework Guidance for Providers of Synthetic Double-Stranded DNA* (Guidance), sets forth recommended baseline standards for the gene and genome synthesis industry and other providers of synthetic dsDNA products, regarding the screening of orders, so they are filled in compliance with U.S. regulations prohibiting the possession, use, and transfer of specific pathogens and biological toxins. The other goals of the Guidance are to encourage best practices in addressing biosecurity concerns associated with the potential misuse of these products to inflict harm or bypass existing regulatory controls and to minimize any negative impacts on the conduct of research and business operations. Rapid and continued advances in nucleic acid synthesis technologies and synthetic biology applications necessitate periodic reevaluation of associated risks and mitigation measures. We invite public comments on whether and, if so, how the Guidance should be modified to address new and emerging challenges posed by advances in this area.

Please submit all comments related to this request for information (RFI) through the web form on the Screening Framework Guidance for Providers of Synthetic Double-Stranded DNA

website at <https://www.phe.gov/syndna/update2020>.

**DATES:** Responses to this RFI must be received no later than 12 p.m. (ET) on October 25, 2020.

**FOR FURTHER INFORMATION CONTACT:** Dr. C. Matthew Sharkey; Division of Policy; Office of Strategy, Policy, Planning, and Requirements; Office of the Assistant Secretary for Preparedness and Response; U.S. Department of Health and Human Services; phone: 202-401-1448; email: [Matthew.Sharkey@hhs.gov](mailto:Matthew.Sharkey@hhs.gov); website: <https://www.phe.gov/syndna/update2020>.

**SUPPLEMENTARY INFORMATION:**

*Disclaimer and Important Notes:* The U.S. Government is seeking feedback from life sciences stakeholders, including from the commercial, health care, academic, and non-profit sectors; federal and state, local, tribal, and territorial (SLTT) law enforcement organizations; SLTT governments; and others, including the members of the public. The focus of this RFI is to help inform whether updates or modifications of the Guidance are needed and, if so, what updates or modifications are desired. The U.S. Government will review and consider all responses to this RFI. The U.S. Government will not provide reimbursement for costs incurred in responding to this RFI. Respondents are advised that the U.S. Government is under no obligation to acknowledge receipt of the information received or to provide feedback to respondents with respect to any information submitted under this RFI. Responses to this RFI do not bind the U.S. Government to any further actions related to this topic. Respondents are welcome to answer all or any subset of the questions and are strongly advised to not include any information in their responses that might be considered attributable, business sensitive, proprietary, or otherwise confidential, as comments may be made available for public review.

**Categories and Questions***Scope of the Guidance*

*Nucleic acid synthesis technologies are fundamental for biomedical research and allow for the generation and modification of some viruses, bacteria, and toxins. Such technologies serve as tools to advance important research to understand such agents better as well as in developing medical countermeasures. Additionally, dsDNA synthesis could pose biosecurity risks, including enabling individuals with ill intent or who are not authorized to*

*possess Select Agents and Toxins (or, for international orders, items listed on the CCL) to obtain them using materials ordered from providers of synthetic dsDNA. The Guidance sets forth recommended baseline standards for the gene and genome synthesis industry and other providers of synthetic dsDNA, regarding the screening of orders, to ensure they are filled in compliance with Select Agent Regulations (SAR) and CCL and to encourage best practices in addressing biosecurity concerns associated with the potential misuse of their products to bypass existing regulatory controls. The U.S. Government—after receiving feedback from the scientific community and synthetic biology industry stakeholders—developed the Guidance to align with providers' existing protocols, to be implemented without unnecessary cost, and to be globally extensible for U.S.-based providers operating abroad and for international providers. The Guidance recommends synthetic dsDNA providers perform customer screening, sequence screening, and follow-up screening to verify the legitimacy of the customer, the principal user, and the end-use of the sequence. The following questions address how the Guidance could be modified to identify nucleic acid sequences that pose biosecurity risks for follow-up screening, if deemed necessary. Please include explanations, examples, or potential benefits and drawbacks in your responses.*

Should the focus of the Guidance extend beyond the Select Agents and Toxins list and CCL?

Are there potential benefits and/or downsides to screening for sequences not on the Select Agents and Toxins list or CCL?

Should the scope of the Guidance be broadened beyond synthetic dsDNA? If so, how? Should the scope of the Guidance be broadened to other synthetic nucleic acids? If so, what synthetic sequences? Or, should the scope of the Guidance be broadened beyond providers of synthetic dsDNA? If so, to whom? Why?

Should the scope of the Guidance be narrowed, either in terms of types of sequences screened or the audience of the Guidance? Why or why not?

*Sequence Screening*

The Guidance currently suggests follow-up screening for synthetic dsDNA orders, with the greatest percent identity (Best Match), over each 200 nucleic acid segment, and the corresponding amino acid sequence, to regulated Select Agents and Toxins and, as applicable, the CCL. The following questions seek to

*understand whether the Guidance should be modified from a technical perspective.*

Should the Guidance be further clarified or otherwise updated to identify embedded “sequences of concern” within larger-length orders? If so, how?

Are there approaches other than the Best Match, using the Basic Local Alignment Search Tool (BLAST) or other local sequence alignment tools, to check against the National Institutes of Health’s (NIH’s) GenBank database that should be considered? What are the benefits and/or downsides of those approaches compared with the current Guidance?

Are there other approaches (e.g., predictive bioinformatics tools) that could be utilized to identify sequences of concern for follow-up screening?

Are there other considerations that would be appropriate (e.g., batch size) in decisions about whether to conduct follow-up screening, such as oligonucleotide orders in quantities that indicate they are intended for use in assembling a pathogen genome directly?

#### *Biosecurity Measures*

*The Guidance recommends that dsDNA orders be screened for sequences derived from or encoding Select Agents and Toxins and, for international customers, dsDNA derived from or encoding items on the CCL. The U.S. Government recognizes that there may be concerns that synthetic dsDNA sequences not unique to Select Agents and Toxins or CCL agents may also pose a biosecurity risk. The U.S. Government also recognizes that many providers have already instituted measures to address these potential concerns. The ongoing development of best practices in this area is commendable and encouraged, particularly considering continued advances in DNA sequencing and synthesis technologies and the accelerated rate of sequence submissions to public databases such as the NIH’s GenBank. However, owing to the complexity of determining if pathogenicity and other material properties pose a biosecurity risk and to the fact that many such agents are not currently encompassed by regulations in the United States, generating a comprehensive list of such agents to screen against was not feasible when the Guidance was released in 2010. The following questions pertain to how the biosecurity risks arising from the potential misuse of genetic sequences should be assessed.*

Is maintenance and use of broader list-based approach(es) now feasible? If so, how might this approach be

realized? If not, what are major roadblocks to implementing this approach? Since the release of the original Guidance, have providers or other entities developed customized database approaches, or approaches that evaluate the biological risk associated with non-Select Agent and Toxin sequences or, for international orders, sequences not associated with items on the CCL? If so, how effective have they been, and have there been any negative impacts?

Are there other security or screening approaches (e.g., risk assessments, virulence factor databases) that would be able to determine potential biosecurity risks arising from the use of nucleic acid synthesis technologies? What are the potential opportunities and limitations of these approaches?

Given that nucleic acid sequences not encompassed by SAR and the CCL may pose biosecurity risks, are there alternative approaches to the screening mechanism that could be established? If such approaches have been established, how effective have they been, and have there been any negative impacts?

#### *Customer Screening*

*The Guidance suggests that if either customer screening or sequence screening raises any concerns, providers should perform follow-up screening of the customer. The purpose of follow-up screening is to verify the legitimacy of the customer and the principal user, to confirm that the customer and principal user placing an order are acting within their authority, and to verify the legitimacy of the end-use. If follow-up screening does not resolve concerns about the order or there is reason to believe a customer may intentionally or inadvertently violate U.S. laws, providers are encouraged to contact designated entities within the U.S. Government for further information and assistance. The following questions address how the Guidance could be modified to improve follow-up screening of customers.*

What, if any, mechanisms for pre-screening customers or categories of customers for certain types of orders, if any, should be considered to make secondary screening for providers of synthetic oligonucleotides more efficient?

Are there additional types of end-user screenings or follow-up mechanisms that should be considered to mitigate the risk that synthetic genetic materials containing sequences assessed to pose biosecurity risks are transferred to a second party who does not have a legitimate purpose to receive them?

#### *Minimizing Burden of the Guidance*

*The Guidance sets forth recommended baseline standards for the gene and genome synthesis industry and other providers of synthetic dsDNA products. Although voluntary, it places upon dsDNA providers the responsibility for screening sequences, customers, and end-users. In considering updates to the Guidance, the U.S. Government seeks approaches that minimize undue negative impacts of customer and sequence screening on the synthetic biology industry and the life sciences research community. The following questions are meant to elicit insights into how these responsibilities may have impacted synthetic dsDNA providers and customers.*

Does implementation of the current Guidance unduly burden providers of synthetic dsDNA? If so, how could it be modified without compromising effectiveness?

Have customers experienced delays in receiving orders of synthetic dsDNA due to screening?

Have there been any undue burdens, financial, logistical, or otherwise since implementing the Guidance? If so, has it increased, especially as other costs associated with dsDNA synthesis have decreased?

What challenges, if any, do the recommendation to retain records of customer orders, “hits,” and/or follow-up screening for at least eight years present for your organization?

How might potential changes to the Guidance to expand the scope or methodologies affect the burden for providers of dsDNA and customers (including delays to scientific progress caused by extended review)?

Is your organization concerned about legal liability challenges between customers and providers?

#### *Technologies Subject to the Guidance*

*The Guidance currently addresses only synthetic dsDNA and it was developed based on providers’ existing protocols and technologies at that time. The life sciences field is rapidly advancing through improved bioinformatics tools, new technologies, and new discoveries. The following questions pertain to how the Guidance could be modified to address the new biosecurity risks that may be posed by advances in the life sciences.*

Do other oligonucleotide types and other synthetic biological technologies, currently not covered by the Guidance, pose similar biosecurity risks as synthetic dsDNA (e.g., Ribonucleic Acid [RNA], single-stranded DNA, or other oligonucleotides)?

Are there other appropriate security measures that should be established to address the potential threats arising from the use of nucleic acid synthesis, given new and emerging technologies in the life sciences?

Are there new biosecurity risks posed by the introduction of new generations of benchtop DNA synthesizers capable of synthesizing and assembling dsDNA, RNA, single-stranded DNA, or oligonucleotides in-house that should be addressed by the Guidance?

As synthetic biology becomes an increasingly digital enterprise with large databases, digital tools, robotics, and artificial intelligence, what new risks are presented to providers and consumers of synthetic oligonucleotides?

If new risks are evident, how should these risks be addressed, keeping in mind the potential impacts on providers, customers, and scientific progress?

#### *Additional Considerations*

*The U.S. Government is committed to mitigating the potential biosecurity risks associated with synthetic DNA and its applications, while minimizing undue impacts on providers, customers, and scientific progress.*

Are there other mechanisms that the U.S. Government should consider for screening sequences, customers, or end-uses that may help mitigate the biosecurity risks associated with synthetic nucleotides and their applications, while minimizing undue impacts on providers, customers, and scientific progress?

(Authority: Section 301 of the Public Health Service Act, 42 U.S.C. 241; Section 605 of the Pandemic and All-Hazards Preparedness and Advancing Innovation Act of 2019, Pub. L. 116–22.)

**Robert P. Kadlec,**

*Assistant Secretary for Preparedness and Response.*

[FR Doc. 2020–18444 Filed 8–25–20; 8:45 am]

**BILLING CODE 4150–37–P**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **National Institutes of Health**

#### **National Institute on Alcohol Abuse And Alcoholism; Notice of Closed Meetings**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Epidemiology, Prevention and Behavior Research Review Subcommittee.

*Date:* October 19–20, 2020.

*Time:* 8:30 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Anna Ghambaryan, M.D., Ph.D., Scientific Review Officer, Extramural Project Review Branch, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2120, MSC 6902, Bethesda, MD 20892, 301–443–4032, [anna.ghambaryan@nih.gov](mailto:anna.ghambaryan@nih.gov).

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; NIAAA and NIDA Institutional Research Training Grant (T32/T35) Review Panel.

*Date:* November 18, 2020.

*Time:* 9:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Luis Espinoza, Ph.D., Scientific Review Officer, Extramural Project Review Branch, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2109, Bethesda, MD 20892, (301) 443–8599, [espinozala@mail.nih.gov](mailto:espinozala@mail.nih.gov). (Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: August 20, 2020.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–18753 Filed 8–25–20; 8:45 am]

**BILLING CODE 4140–01–P**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **National Institutes of Health**

#### **National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel; BRAIN Initiative—Research Opportunities in Using Invasive and Stimulating Technologies in the Human Brain (ROH) U01 Review.

*Date:* September 29, 2020.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, NSC Building, 6001 Executive Boulevard, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Tatiana Pasternak, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892, (301) 496–9223, [tatiana.pasternak@nih.gov](mailto:tatiana.pasternak@nih.gov). (Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: August 20, 2020.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–18761 Filed 8–25–20; 8:45 am]

**BILLING CODE 4140–01–P**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **National Institutes of Health**

#### **Office of the Director, National Institutes of Health; Notice of Meeting**

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Advisory Committee to

the Director, National Institutes of Health.

The meeting will be held as a virtual meeting and is open to the public as indicated below. Individuals who plan to view the meeting and need special assistance or other reasonable accommodations to view the meeting should notify the Contact Person listed below in advance of the meeting. The meeting will be videocast and can be accessed from the NIH Videocasting and Podcasting website (<http://videocast.nih.gov/>).

*Name of Committee:* Advisory Committee to the Director, National Institutes of Health.  
*Date:* October 9, 2020.

*Time:* 3:00 p.m. to 4:00 p.m.

*Agenda:* NIH-Wide Strategic Plan for Fiscal Years 2021–2025.

*Place:* National Institutes of Health, Building 1, One Center Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Gretchen Wood, Staff Assistant, National Institutes of Health, Office of the Director, One Center Drive, Building 1, Room 126, Bethesda, MD 20892, 301–496–4272, [Woodgs@od.nih.gov](mailto:Woodgs@od.nih.gov).

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: <http://acd.od.nih.gov>, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS).

Dated: August 21, 2020.

**Natasha M. Copeland,**

*Deputy Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–18790 Filed 8–25–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; PAR–20–072. NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

*Date:* October 14, 2020.

*Time:* 2:30 p.m. to 5:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F30A, Rockville, MD 20892 (Telephone Conference Call).

*Contact Person:* Ellen S. Buczek, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F30A, Bethesda, MD 20892–9823, (240) 669–5028, [ebuczek1@niaid.nih.gov](mailto:ebuczek1@niaid.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 20, 2020.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–18754 Filed 8–25–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Minority Health and Health Disparities; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Minority Health and Health Disparities.

The meeting will be held as a virtual meeting and is open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable

accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (<http://videocast.nih.gov/>).

A portion of the meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Advisory Council on Minority Health and Health Disparities.

*Date:* September 3, 2020.

*Closed:* 1:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Name of Committee:* National Advisory Council on Minority Health and Health Disparities.

*Date:* September 4, 2020.

*Open:* 11:00 a.m. to 4:00 p.m.

*Agenda:* Opening Remarks, Administrative Matters, Director's Report, Presentations, and Other Business of the Council.

*Place:* National Institutes of Health, 6707 Democracy Boulevard Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Joyce A. Hunter, Ph.D., Senior Advisor to the Director, OD, National Institute on Minority Health and Health Disparities, National Institutes of Health, 6707 Democracy Boulevard, Suite 800, Bethesda, Maryland 20892–5465, 301) 402–1366, [hunterj@nih.gov](mailto:hunterj@nih.gov).

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: NIMHD: <https://www.nimhd.nih.gov/about/advisory-council/>, where an agenda and any additional information for the meeting will be posted when available.

This notice is being published less than 15 days prior to the meeting due to scheduling difficulties.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–18685 Filed 8–25–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Cellular and Molecular Biology of Glia Study Section.

*Date:* September 24–25, 2020.

*Time:* 9:00 a.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Linda MacArthur, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4187, Bethesda, MD 20892, 301-537-9986, [macarthurlh@csr.nih.gov](mailto:macarthurlh@csr.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 20, 2020.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020-18673 Filed 8-25-20; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; PAR-20-072, NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

*Date:* October 7, 2020.

*Time:* 2:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F30A, Rockville, MD 20892 (Telephone Conference Call).

*Contact Person:* Ellen S. Buczek, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F30A, Bethesda, MD 20892-9823, (240) 669-5028, [ebuczek1@niaid.nih.gov](mailto:ebuczek1@niaid.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 20, 2020.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020-18756 Filed 8-25-20; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group; Kidney, Urologic and Hematologic Diseases D Subcommittee DDK-D.

*Date:* October 27–29, 2020.

*Time:* 5:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Jason D. Hoffert, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7343, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, (301) 496-9010, [hoffertj@niddk.nih.gov](mailto:hoffertj@niddk.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: August 20, 2020.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020-18668 Filed 8-25-20; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel; Clinical Trials for COVID 19 Management in older individuals.

*Date:* October 9, 2020.

*Time:* 11:30 a.m. to 3:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).



*Contact Person:* Maurizio Grimaldi, MD, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Gateway Building, Suite 2W200, Bethesda, MD 20892, (301) 496-9374, [grimaldim2@mail.nih.gov](mailto:grimaldim2@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 20, 2020.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020-18672 Filed 8-25-20; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases B Subcommittee Microbiology & Infectious Disease B (MID-B).

*Date:* September 21-22, 2020.

*Time:* 10:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F30A, Rockville, MD 20892 (Telephone Conference Call).

*Contact Person:* Ellen S. Buczek, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F30A, Bethesda, MD 20892-9823, (240) 669-5028, [ebuczek01@niaid.nih.gov](mailto:ebuczek01@niaid.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 20, 2020.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020-18755 Filed 8-25-20; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Dental & Craniofacial Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Dental and Craniofacial Research Council.

The meeting will be open to the public via NIH videocast. The URL link to this meeting is <https://videocast.nih.gov/live.asp?live=38185>.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Advisory Dental and Craniofacial Research Council.

*Date:* September 10, 2020.

*Open:* 9:30 a.m. to 12:05 p.m.

*Agenda:* Report of the Director, NIDCR and Concept Review.

*Place:* National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Boulevard, Room 662, Bethesda, MD 20892 (Virtual Meeting).

*Closed:* 12:20 p.m. to 1:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Boulevard, Room 662, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Alicia J. Dombroski, Ph.D., Director, Division of Extramural Activities, National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Boulevard, Room 662, Bethesda, MD 20892, 301-594-4805, [adombroski@nidcr.nih.gov](mailto:adombroski@nidcr.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Any interested person may file written comments with the committee no later than 15 days after the meeting by forwarding the statement to the Contact Person listed on this notice. The statement should include the

name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: <http://www.nidcr.nih.gov/about>, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: August 20, 2020.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020-18759 Filed 8-25-20; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Three-Dimensional (3D) Human Biomimetics for Infectious Diseases (U19 Clinical Trial Not Allowed).

*Date:* November 5, 2020.

*Time:* 11:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G42A, Rockville, MD 20892 (Telephone Conference Call).

*Contact Person:* Lynn Rust, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G42A, Bethesda, MD 20892-9823, (240) 669-5069, [lrust@niaid.nih.gov](mailto:lrust@niaid.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856,



Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 20, 2020.

**Tyeshia M. Roberson,**  
Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020-18757 Filed 8-25-20; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Office of The Director, National Institutes of Health; Notice of Meeting

Notice is hereby given of a change in the meeting of the HEAL Multi-Disciplinary Working Group (MDWG) Meeting, August 31, 2020, 9:00 a.m. to 4:30 p.m., National Institutes of Health, Bethesda, MD 20892, Virtual Meeting, which was published in the **Federal Register** on August 5, 2020, 85 FR 47390.

The meeting notice is amended to change the meeting date from a one-day to a two-day meeting. The August 2020 HEAL MDWG Meeting will now be held on August 31, 2020 to September 1, 2020, with the open and closed portions of the meeting as indicated below. The meeting is partially closed to the public.

*Open:* August 31, 2020, 11:00 a.m. to 1:30 p.m.

*Closed:* August 31, 2020, 1:30 p.m. to 3:30 p.m.

*Open:* September 1, 2020, 11:00 a.m. to 1:30 p.m.

The open portion of the meeting will be live webcast at: <https://videocast.nih.gov/>.

Dated: August 20, 2020.

**Tyeshia M. Roberson,**  
Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020-18760 Filed 8-25-20; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial

property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel; NIA Tissue Bank.

*Date:* October 8, 2020.

*Time:* 2:30 p.m. to 5:30 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Dario Dieguez, Jr., Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 827-3101, [dario.dieguez@nih.gov](mailto:dario.dieguez@nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 20, 2020.

**Miguelina Perez,**

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020-18669 Filed 8-25-20; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; 75N93020R00008: Clinical Trial Materials for Virus Vaccines (CTMVV).

*Date:* September 18, 2020.

*Time:* 12:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G11,

Rockville, MD 20892 (Telephone Conference Call).

*Contact Person:* Kumud Singh, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G11, Rockville, MD 20852, 301-761-7830, [kumud.singh@nih.gov](mailto:kumud.singh@nih.gov). (Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 20, 2020.

**Tyeshia M. Roberson,**  
Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020-18758 Filed 8-25-20; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; R13 Conference Grant Applications.

*Date:* September 24, 2020.

*Time:* 11:00 a.m. to 12:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Jian Yang, Ph.D., Scientific Review Officer, Review Branch, Division of Extramural Activities, NIDDK, National Institutes of Health, Room 7111, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, (301) 594-7799, [yangj@extra.niddk.nih.gov](mailto:yangj@extra.niddk.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology

and Hematology Research, National Institutes of Health, HHS)

Dated: August 20, 2020.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020-18670 Filed 8-25-20; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Nursing and Related Clinical Sciences.

*Date:* September 8, 2020.

*Time:* 11:00 a.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Preethy Nayar, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3156, Bethesda, MD 20892, [nayarp2@csr.nih.gov](mailto:nayarp2@csr.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 20, 2020.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020-18671 Filed 8-25-20; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0027]

#### Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Interagency Record of Request A, G, or NATO Dependent Employment Authorization or Change/Adjustment To/From A, G, or NATO Status

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information or new collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

**DATES:** Comments are encouraged and will be accepted for 60 days until October 26, 2020.

**ADDRESSES:** All submissions received must include the OMB Control Number 1615-0027 in the body of the letter, the agency name and Docket ID USCIS-2007-0041. Submit comments via the Federal eRulemaking Portal website at <https://www.regulations.gov> under e-Docket ID number USCIS-2007-0041. USCIS is limiting communications for this Notice as a result of USCIS' COVID-19 response actions.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number 202-272-8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website

at <https://www.uscis.gov>, or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

#### SUPPLEMENTARY INFORMATION:

##### Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: <https://www.regulations.gov> and entering USCIS-2007-0041 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at <https://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <https://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

#### Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Interagency Record of Request A, G, or NATO Dependent Employment Authorization or Change/Adjustment To/From A, G, or NATO Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I-566; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* **Primary:** Individuals or households. The data on this form is used by Department of State (DOS) to certify to USCIS eligibility of dependents of A or G principals requesting employment authorization, as well as for NATO/Headquarters, Supreme Allied Commander Transformation (NATO/HQ SACT) to certify to USCIS similar eligibility for dependents of NATO principals. DOS also uses this form to certify to USCIS that certain A, G or NATO nonimmigrants may change their status to another nonimmigrant status. USCIS, on the other hand, uses data on this form in the adjudication of change or adjustment of status applications from aliens in A, G, or NATO classifications and following any such adjudication informs DOS of the results by use of this form. The information provided on this form continues to ensure effective interagency communication among the three governmental departments—the Department of Homeland Security (DHS), DOS, and the Department of Defense (DOD)—as well as with NATO/HQ SACT. These departments and organizations utilize this form to facilitate the uniform collection and review of information necessary to determine an alien's eligibility for the requested immigration benefit. This form also ensures that the information collected is communicated among DHS, DOS, DOD, and NATO/HQ SACT regarding each other's findings or actions.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I-566 is 5,800 and the estimated hour burden per response is 1.42 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 8,236 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$710,500.

Dated: August 21, 2020.

**Samantha L. Deshommes,**

Chief, Regulatory Coordination Division,  
Office of Policy and Strategy, U.S. Citizenship  
and Immigration Services, Department of  
Homeland Security.

[FR Doc. 2020-18770 Filed 8-25-20; 8:45 am]

**BILLING CODE 9111-97-P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0037]

#### Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Refugee/Asylee Relative Petition

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

**DATES:** Comments are encouraged and will be accepted for 60 days until October 26, 2020.

**ADDRESSES:** All submissions received must include the OMB Control Number 1615-0037 in the body of the letter, the agency name and Docket ID USCIS-2007-0030. Submit comments via the Federal eRulemaking Portal website at <http://www.regulations.gov> under e-Docket ID number USCIS-2007-0030. USCIS is limiting communications for this Notice as a result of USCIS' COVID-19 response actions.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number 202-272-8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case

status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <http://www.uscis.gov>, or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

#### SUPPLEMENTARY INFORMATION:

##### Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: <http://www.regulations.gov> and enter USCIS-2007-0030 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <http://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

#### Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Refugee/Asylee Relative Petition.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I-730; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, local or Tribal Government. This form will allow U.S. Citizenship and Immigration Services (USCIS) to obtain verification from the courts that a person claiming to be a naturalized citizen has, in fact, been naturalized.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I-730 is 13,000 and the estimated hour burden per response is .667 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 8,671 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$1,592,500.

Dated: August 21, 2020.

**Samantha L. Deshommes,**

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2020-18721 Filed 8-25-20; 8:45 am]

BILLING CODE 9111-97-P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0017]

#### Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Advance Permission To Enter as Nonimmigrant

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is

published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

**DATES:** Comments are encouraged and will be accepted for 60 days until October 26, 2020.

**ADDRESSES:** All submissions received must include the OMB Control Number 1615-0017 in the body of the letter, the agency name and Docket ID USCIS-2008-0009. Submit comments via the Federal eRulemaking Portal website at <https://www.regulations.gov> under e-Docket ID number USCIS-2008-0009. USCIS is limiting communications for this Notice as a result of USCIS' COVID-19 response actions.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number 202-272-8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <https://www.uscis.gov>, or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

#### SUPPLEMENTARY INFORMATION:

##### Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: <https://www.regulations.gov> and entering USCIS-2008-0009 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at <https://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <https://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

#### Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Advance Permission to Enter as Nonimmigrant.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I-192; e-SAFE; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The data collected will be used by CBP and USCIS to determine whether the applicant is eligible to enter the United States temporarily under the provisions of section 212(d)(3), 212(d)(13), and 212(d)(14) of the INA. The respondents for this information collection are certain inadmissible nonimmigrant aliens who wish to apply for permission to enter the United States and applicants for T or petitioners for U nonimmigrant status. CBP has developed an electronic filing system, called Electronic Secured Adjudication Forms Environment (e-SAFE), through which Form I-192 can be submitted when filed with CBP.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I-192 is 61,050 and the estimated hour burden per response is 1.5 hours; the estimated total number of respondents for the information

collection e-SAFE is 7,000 and the estimated hour burden per response is 1.25 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 100,325 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$17,522,875.

Dated: August 21, 2020.

**Samantha L. Deshommes,**

Chief, Regulatory Coordination Division,  
Office of Policy and Strategy, U.S. Citizenship  
and Immigration Services, Department of  
Homeland Security.

[FR Doc. 2020-18717 Filed 8-25-20; 8:45 am]

BILLING CODE 9111-97-P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0007]

#### Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Alien Change of Address Card

**AGENCY:** U.S. Citizenship and  
Immigration Services, Department of  
Homeland Security.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

**DATES:** Comments are encouraged and will be accepted for 60 days until October 26, 2020.

**ADDRESSES:** All submissions received must include the OMB Control Number 1615-0007 in the body of the letter, the agency name and Docket ID USCIS-2008-0018. Submit comments via the Federal eRulemaking Portal website at

<https://www.regulations.gov> under e-Docket ID number USCIS-2008-0018. USCIS is limiting communications for this Notice as a result of USCIS' COVID-19 response actions.

#### FOR FURTHER INFORMATION CONTACT:

USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number 202-272-8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <https://www.uscis.gov>, or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

#### SUPPLEMENTARY INFORMATION:

##### Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: <https://www.regulations.gov> and entering USCIS-2008-0018 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at <https://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <https://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who

are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

#### Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Alien Change of Address Card.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* AR-11; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Form AR-11, Alien's Change of Address Card, provides a standardized format for compliance with section 265(a) of the INA. Change of Address Online provides a standardized format for providing change of address information electronically.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection AR-11 is 81,200 and the estimated hour burden per response is 0.20 hours; the estimated total number of respondents for the information collection Change of Address Online is 1,032,950 and the estimated hour burden per response is 0.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 191,842 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$304,500.

Dated: August 21, 2020.

**Samantha L. Deshommes,**

Chief, Regulatory Coordination Division,  
Office of Policy and Strategy, U.S. Citizenship  
and Immigration Services, Department of  
Homeland Security.

[FR Doc. 2020-18719 Filed 8-25-20; 8:45 am]

BILLING CODE 9111-97-P

**DEPARTMENT OF HOMELAND SECURITY****U.S. Citizenship and Immigration Services****[OMB Control Number 1615–0032]****Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Waiver of Grounds of Inadmissibility Under Sections 245A or 210 of the Immigration and Nationality Act****AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information or new collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

**DATES:** Comments are encouraged and will be accepted for 60 days until October 26, 2020.

**ADDRESSES:** All submissions received must include the OMB Control Number 1615–0032 in the body of the letter, the agency name and Docket ID USCIS–2006–0047. Submit comments via the Federal eRulemaking Portal website at <https://www.regulations.gov> under e-Docket ID number USCIS–2006–0047. USCIS is limiting communications for this Notice as a result of USCIS' COVID–19 response actions.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website

at <https://www.uscis.gov>, or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

**SUPPLEMENTARY INFORMATION:****Comments**

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: <https://www.regulations.gov> and entering USCIS–2006–0047 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at <https://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <https://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Waiver of Grounds of Inadmissibility Under Sections 245A or 210 of the Immigration and Nationality Act.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–690; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

*Primary:* Individuals or households. Applicants for lawful permanent residence under INA 210 or 245A who are inadmissible under certain grounds of inadmissibility at INA 212(a) would use Form I–690 to seek a waiver of inadmissibility.

USCIS uses the information provided through Form I–690 to adjudicate waiver requests from individuals who are inadmissible to the United States. Based upon the instructions provided, a respondent can gather and submit the required documentation to USCIS for consideration of an inadmissibility waiver.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–690 is 30 and the estimated hour burden per response is 3 hours; the estimated total number of respondents for the information collection I–690 Supplement 1, Applicants With a Class A Tuberculosis Condition is 11 and the estimated hour burden per response is 2 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 112 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$4,523.00.

Dated: August 21, 2020.

**Samantha L. Deshommes,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2020–18723 Filed 8–25–20; 8:45 am]

**BILLING CODE 9111–97–P**

**DEPARTMENT OF HOMELAND SECURITY****U.S. Citizenship and Immigration Services**

[OMB Control Number 1615–0030]

**Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Waiver of the Foreign Residence Requirement of Section 212(e) of the Immigration and Nationality Act****AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

**DATES:** Comments are encouraged and will be accepted for 60 days until October 26, 2020.

**ADDRESSES:** All submissions received must include the OMB Control Number 1615–0030 in the body of the letter, the agency name and Docket ID USCIS–2008–0012. Submit comments via the Federal eRulemaking Portal website at <http://www.regulations.gov> under e-Docket ID number USCIS–2008–0012. USCIS is limiting communications for this Notice as a result of USCIS' COVID–19 response actions.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message.) Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <http://www.uscis.gov>, or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

**SUPPLEMENTARY INFORMATION:****Comments**

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: <http://www.regulations.gov> and enter USCIS–2008–0012 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <http://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Waiver of the Foreign Residence Requirement of Section 212(e) of the Immigration and Nationality Act.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–612; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals and Households. This information collection is necessary and may be submitted only by an alien who believes that compliance with foreign residence requirements would impose exceptional hardship on his or her spouse or child who is a citizen of the United States, or a lawful permanent resident; or that returning to the country of his or her nationality or last permanent residence would subject him or her to persecution on account of race, religion, or political opinion. Certain aliens admitted to the United States as exchange visitors are subject to the foreign residence requirements of section 212(e) of the Immigration and Nationality Act (the Act). Section 212(e) of the Act also provides for a waiver of the foreign residence requirements in certain instances.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–612 is 7,200 and the estimated hour burden per response is .333 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 2,398 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$882,000.

Dated: August 21, 2020.

**Samantha L. Deshommes**,  
Chief, Regulatory Coordination Division,  
Office of Policy and Strategy, U.S. Citizenship  
and Immigration Services, Department of  
Homeland Security.

[FR Doc. 2020–18763 Filed 8–25–20; 8:45 am]

**BILLING CODE 9111–97–P**

**DEPARTMENT OF HOMELAND SECURITY****U.S. Citizenship and Immigration Services**

[OMB Control Number 1615–0106]

**Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Petition for Qualifying Family Member of a U–1 Nonimmigrant**

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.



**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

**DATES:** Comments are encouraged and will be accepted for 60 days until October 26, 2020.

**ADDRESSES:** All submissions received must include the OMB Control Number 1615-0106 in the body of the letter, the agency name and Docket ID USCIS-2009-0010. Submit comments via the Federal eRulemaking Portal website at <http://www.regulations.gov> under e-Docket ID number USCIS-2009-0010. USCIS is limiting communications for this Notice as a result of USCIS' COVID-19 response actions.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number 202-272-8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <http://www.uscis.gov>, or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

**SUPPLEMENTARY INFORMATION:****Comments**

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: <http://www.regulations.gov> and enter USCIS-2009-0010 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal

information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <http://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Petition for Qualifying Family Member of a U-1 Nonimmigrant.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I-929; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* *Primary:* Individuals and Households. Section 245(m) of the Immigration and Nationality Act (Act) allows certain qualifying family members who have never held U nonimmigrant status to seek lawful permanent residence or apply for immigrant visas. Before such family members may apply for adjustment of status or seek immigrant visas, the U-1 nonimmigrant who has been granted adjustment of status must file an immigrant petition on behalf of the qualifying family member using Form I-929. Form I-929 is necessary for USCIS to make a determination that the eligibility requirements and conditions

are met regarding the qualifying family member.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I-929 is 1,500 and the estimated hour burden per response is 1 hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 1,500 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$183,750.

Dated: August 21, 2020.

**Samantha L. Deshommes,**

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2020-18720 Filed 8-25-20; 8:45 am]

**BILLING CODE 9111-97-P**

**DEPARTMENT OF HOMELAND SECURITY****U.S. Citizenship and Immigration Services**

[OMB Control Number 1615-0053]

**Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Request for Certification of Military or Naval Service**

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.



**DATES:** Comments are encouraged and will be accepted for 60 days until October 26, 2020.

**ADDRESSES:** All submissions received must include the OMB Control Number 1615-0053 in the body of the letter, the agency name and Docket ID USCIS-2007-0016. Submit comments via the Federal eRulemaking Portal website at <https://www.regulations.gov> under e-Docket ID number USCIS-2007-0016. USCIS is limiting communications for this Notice as a result of USCIS' COVID-19 response actions.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number 202-272-8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <https://www.uscis.gov>, or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments**

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: <https://www.regulations.gov> and entering USCIS-2007-0016 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at <https://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <https://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### **Overview of This Information Collection**

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Request for Certification of Military or Naval Service.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N-426; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* *Primary:* Individuals or households. The Form N-426 is used by naturalization applicants to document honorable service in the U.S. Armed Forces. The form is filed with U.S. Citizenship and Immigration Services (USCIS) when the respondent applies for naturalization with USCIS Form N-400, Application for Naturalization (OMB Control Number 1615-0052). The Department of Defense (DOD) record centers or personnel offices verify and certify the applicant's military or naval service information provided on Form N-426. USCIS reviews the form as part of the process to determine the applicant's eligibility for naturalization. USCIS also collects biometric information from respondents to verify their identity and check or update their background information.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection N-426 is 10,000 and the estimated hour burden per response is .75 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 7,500 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual

cost burden associated with this collection of information is \$245,000.

Dated: August 21, 2020.

**Samantha L. Deshommes,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2020-18724 Filed 8-25-20; 8:45 am]

**BILLING CODE 9111-97-P**

#### **DEPARTMENT OF HOMELAND SECURITY**

##### **U.S. Citizenship and Immigration Services**

**[OMB Control Number 1615-0151]**

##### **Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: USCIS Tip Form.**

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

**DATES:** Comments are encouraged and will be accepted for 60 days until October 26, 2020.

**ADDRESSES:** All submissions received must include the OMB Control Number 1615-0151 in the body of the letter, the agency name and Docket ID USCIS-2019-0001. Submit comments via the Federal eRulemaking Portal website at <http://www.regulations.gov> under e-Docket ID number USCIS-2019-0001. USCIS is limiting communications for this Notice as a result of USCIS' COVID-19 response actions.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number 202-272-8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please

note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <http://www.uscis.gov>, or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

#### SUPPLEMENTARY INFORMATION:

##### Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: <http://www.regulations.gov> and enter USCIS-2019-0001 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <http://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* USCIS Tip Form.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form G-1530; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* *Primary:* Individuals and Households. The USCIS Tip Form will facilitate the collection of information from the public regarding credible and relevant claims of immigration benefit fraud impacting both open adjudications as well as previously approved benefit requests where the benefit remains valid.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection G-1530 is 55,000 and the estimated hour burden per response is .166 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 9,130 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* There is no public burden cost associated with this collection.

Dated: August 21, 2020.

**Samantha L. Deshommes**,  
Chief, Regulatory Coordination Division,  
Office of Policy and Strategy, U.S. Citizenship  
and Immigration Services, Department of  
Homeland Security.

[FR Doc. 2020-18762 Filed 8-25-20; 8:45 am]

BILLING CODE 9111-97-P

#### DEPARTMENT OF HOMELAND SECURITY

##### U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0125]

##### Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Customer Profile Management System-IDENTity Verification Tool

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and

Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e. the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

**DATES:** Comments are encouraged and will be accepted for 60 days until October 26, 2020.

**ADDRESSES:** All submissions received must include the OMB Control Number 1615-0125 in the body of the letter, the agency name and Docket ID USCIS-2011-0008. Submit comments via the Federal eRulemaking Portal website at <https://www.regulations.gov> under e-Docket ID number USCIS-2011-0008. USCIS is limiting communications for this Notice as a result of USCIS' COVID-19 response actions.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number 202-272-8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <https://www.uscis.gov>, or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

#### SUPPLEMENTARY INFORMATION:

##### Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: <https://www.regulations.gov> and entering USCIS-2011-0008 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at <https://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information

provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <https://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Customer Profile Management System-IDENTity Verification Tool (CPMS-IVT).

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* M-1061; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Respondents subject to this information collection are all individuals who are appearing at a USCIS District/Field Office for a required interview in connection with their request for an immigration or naturalization benefit, or in order to receive evidence of an immigration benefit such as a temporary travel document, parole authorization, temporary extension of a I-90, or temporary I-551 stamp in a passport or on a Form I-94 evidencing lawful permanent residence.

Respondents are required to have their photograph and fingerprints taken at the USCIS District/Field Office to be inputted into the Customer Profile

Management System-IDENTity Verification Tool (CPMS-IVT). The only U.S. citizen respondents subject to enrollment in CPMS-IVT are petitioners filing orphan or adoption petitions (Forms I-600/600A) and U.S. citizen petitioners of family-based petitions required to appear at an ASC for biometric capture for purposes of complying with the Adam Walsh Child Protection and Safety Act of 1996, Public Law 109-248.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection M-1061 is 1,500,000 and the estimated hour burden per response is .083 hours. The average number of responses per respondent on an annual basis is 2.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 249,000 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$0.

Dated: August 21, 2020.

**Samantha L. Deshommes,**

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2020-18764 Filed 8-25-20; 8:45 am]

**BILLING CODE 9111-97-P**

#### DEPARTMENT OF THE INTERIOR

##### Fish and Wildlife Service

[FWS-R8-ES-2020-N120;  
FXES11140800000-201-FF08ECAR00]

#### Notice of Availability; Amendment to the Multiple Species Conservation Program, County of San Diego Subarea Plan for Otay Ranch Village 14 and Planning Areas 16 and 19, San Diego County, California; Environmental Assessment; Reopening of Public Comment Period

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; reopening of public comment period.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) is reopening the public comment period for the draft environmental assessment (DEA) and proposed Otay Ranch amendment to the County of San Diego's Multiple Species

Conservation Program Subarea Plan (Amendment).

**DATES:** The comment period for the DEA and Amendment, which published on July 23, 2020 (85 FR 44544), is reopened. Please submit your written comments by 11:59 p.m. PST on September 4, 2020.

**ADDRESSES:** *Document availability:* To view the DEA and Amendment, go to the U.S. Fish and Wildlife Service's Carlsbad Field Office website at [https://www.fws.gov/carlsbad/HCP\\_Docs.html](https://www.fws.gov/carlsbad/HCP_Docs.html).

*Submitting comments:* You may submit comments by one of the following methods. If you have already submitted a comment, you need not resubmit it.

- *U.S. Mail:* Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2177 Salk Avenue, Suite 250, Carlsbad, CA 92008.

- *Email:* [fw8cfwocomments@fws.gov](mailto:fw8cfwocomments@fws.gov).

We request that you submit comments by only the methods described above.

#### FOR FURTHER INFORMATION CONTACT:

Susan Wynn, Carlsbad Fish and Wildlife Office, 760-431-9440. If you use a telecommunications device for the deaf (TDD), please call the Federal Relay Service (FRS) at 800-877-8339.

**SUPPLEMENTARY INFORMATION:** The U.S. Fish and Wildlife Service (Service) received an incidental take permit (ITP) application for an Amendment to the Multiple Species Conservation Program, County of San Diego Subarea Plan for Otay Ranch Village 14 and Planning Areas 16 and 19, on May 21, 2020, from the County of San Diego in accordance with the requirements of the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The EA also analyzes the environmental consequences of a proposed land disposal and exchange for 219.4 acres of land that was acquired, in part, from a Federal cooperative agreement and an Endangered Species Act section 6 Habitat Conservation Plan Land Acquisition grant. For more information, see the July 23, 2020 (85 FR 44544), notice.

We are reopening the public comment period on the DEA and Amendment documents (see **DATES** and **ADDRESSES**).

#### Authority

We issue this notice pursuant to section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32), and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its

implementing regulations (40 CFR 1506.6 and 43 CFR 46.305).

**Scott Sobiech,**

*Field Supervisor, Carlsbad Fish and Wildlife Office, Carlsbad, California.*

[FR Doc. 2020–18789 Filed 8–21–20; 4:15 pm]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS–HQ–MB–2020–N091; FF07CAFB00–201–FXFR13350700001; OMB Control Number 1018–0146]

#### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Depredation and Control Orders

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an information collection with revisions.

**DATES:** Interested persons are invited to submit comments on or before September 25, 2020.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB/PERMA (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to [Info\\_Coll@fws.gov](mailto:Info_Coll@fws.gov). Please reference OMB Control Number 1018–0146 in the subject line of your comments.

#### FOR FURTHER INFORMATION CONTACT:

Madonna L. Baucum, Service Information Collection Clearance Officer, by email at [Info\\_Coll@fws.gov](mailto:Info_Coll@fws.gov), or by telephone at (703) 358–2503. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance. You may also view the information collection request (ICR) at <http://www.reginfo.gov/public/do/PRAMain>.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork

Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public’s reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

On February 11, 2020, we published in the **Federal Register** (85 FR 7780) a notice of our intent to request that OMB approve this information collection. We received one comment, which did not address the information collection requirements. Therefore, no response was required.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed information collection request (ICR) that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Abstract:** The Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703 *et seq.*) implements four treaties concerning

migratory birds signed by the United States with Canada, Mexico, Japan, and Russia. These treaties require that we preserve most U.S. species of birds, and prohibit activities involving migratory birds, except as authorized by regulation. Under the MBTA, it is unlawful to take, possess, import, export, transport, sell, purchase, barter—or offer for sale, purchase, or barter—migratory birds or their parts, nests, or eggs, except as authorized by regulation. This information collection is associated with our regulations that implement the MBTA. We collect information concerning depredation actions taken to determine the number of take of birds of each species each year and whether the control actions are likely to affect the populations of those species.

#### Annual Report (FWS Form 3–2436)

Regulations at 50 CFR 21 establish depredation orders and impose reporting and recordkeeping requirements. All persons or entities acting under depredation orders must provide an annual report. The capture and disposition of all non-target migratory birds, including Endangered, Threatened, or Candidate species must be reported on the Annual Report. In addition to the name, address, phone number, and email address of each person or entity operating under the Order, we collect the following information for each target and non-target species taken:

- Species taken,
- Number of birds taken,
- Months and years in which the birds were taken,
- State(s) and county(ies) in which the birds were taken,
- General purpose for which the birds were taken (such as for protection of agriculture, human health and safety, property, or natural resources), and
- Disposition of non-target species (released, sent to rehabilitation facilities, etc.).

We use the information to:

- Identify the person or entity acting under depredation orders;
- Assess the impact to non-target migratory birds or other species;
- Ensure that agencies and individuals operate in accordance with the terms, conditions, and purpose of the orders;
- Inform us as to whether there are areas in which control activities are concentrated and might be conducted more efficiently; and
- Help gauge the effectiveness of the following orders in mitigating order-specific related damages:

§ 21.43—Depredation order for blackbirds, cowbirds, crows, grackles, and magpies;

§ 21.44—Depredation order for horned larks, house finches, and white-crowned sparrows in California;

§ 21.46—Depredation order for depredating California scrub jays and Steller's jays in Washington and Oregon;

§ 21.49—Control order for resident Canada geese at airports and military airfields;

§ 21.50—Depredation order for resident Canada geese nests and eggs;

§ 21.51—Depredation order for resident Canada geese at agricultural facilities;

§ 21.52—Public health control order for resident Canada geese;

§ 21.53—Control order for purple swamphens;

§ 21.54—Control Order for Muscovy ducks in the United States;

§ 21.55—Control order for invasive migratory birds in Hawaii;

§ 21.60—Conservation Order for light geese; and

§ 21.61—Population control of resident Canada geese.

#### Recordkeeping Requirements (50 CFR 13.48)

Persons and entities operating under these orders must keep accurate records to complete Forms 3–436. The records of any taking must be legibly written or reproducible in English and maintained for 5 years after the persons or entities have ceased the activity authorized by this Order. Persons or entities who reside or are located in the United States and persons or entities conducting commercial activities in the United States who reside or are located outside the United States must maintain records at a location in the United States where the records are available for inspection.

#### Endangered, Threatened, and Candidate Species Take Report (50 CFR 21)

If attempts to trap any species under a depredation order injure a bird of a non-target species that is federally listed as endangered or threatened, or that is

a candidate for listing, the bird must be delivered to a rehabilitator and must be reported by phone or email to the nearest U.S. Fish and Wildlife Service Field Office or Special Agent. Capture and disposition of all non-target migratory birds must also be reported on the annual report.

#### Proposed Revisions

##### Title Change

To more accurately reflect the purpose of this collection, the Service is proposing to change the title of this information collection from “Depredation Orders Under 50 CFR 21.43 and 21.46” to “Depredation and Control Orders Under 50 CFR 21.”

##### Geese Requirements in 50 CFR Subparts D and E

In addition, we are proposing to merge information collection requirements associated with the management of geese contained in 50 CFR subparts D and E into OMB Control Number 1018–0146. OMB previously approved these information collection requirements under two OMB control numbers:

- 1018–0103, “*Conservation Order for Light Geese, 50 CFR 21.60*” (exp. 03/31/2021), and
- 1018–0133, “*Control and Management of Resident Canada Geese, 50 CFR 20.21, 21.49, 21.50, 21.51, 21.52 and 21.61*” (exp. 06/30/2022).

We are not proposing any changes to the currently approved requirements for either collection and are merely transferring the requirements into 1018–0146. Upon receiving OMB approval of this submission under 1018–0146, we will discontinue both 1018–0103 and 1018–0133 to avoid a duplication of burden.

##### FWS Form 3–2436 “Depredation and Control Orders—Annual Reporting”

Previously, all persons or entities acting under depredation orders provided information on the annual report via FWS Form 3–202–21–2143, “Annual Report—Depredation Order for Blackbirds, Cowbirds, Grackles,

Magpies, and Crows” or FWS Form 3–2500, “Depredation Order for Depredating Jays in Washington and Oregon.” In February 2019, the Service received OMB approval to pretest FWS Form 3–2436 under the Department of the Interior “Fast Track” generic clearance process (OMB Control Number 1090–0011). With this submission, in an effort to streamline submissions and reduce public burden, the Service is proposing to discontinue FWS Forms 3–202–21–2143 and 3–2500, and use FWS Form 3–2436, “Depredation and Control Orders—Annual Reporting” as the sole annual reporting form.

##### ePermits

As part of this revision, we will also request OMB approval to automate FWS Form 3–2436 in the Service's new “ePermits” initiative, an automated system that will allow the agency to move towards a streamlined permitting and reporting process to improve customer experience and to reduce public burden. Public burden reduction is a priority for the Service; the Assistant Secretary for Fish, Wildlife, and Parks; and senior leadership at the Department of the Interior. This new system will enhance the user experience by allowing users to enter data from any device that has internet access, including personal computers (PCs), tablets, and smartphones.

*Title of Collection:* Depredation and Control Orders Under 50 CFR 21.

*OMB Control Number:* 1018–0146.

*Form Number:* FWS Form 3–2436.

*Type of Review:* Revision of a currently approved collection.

*Respondents/Affected Public:* State and Federal wildlife damage management personnel, farmers, and individuals.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* On occasion for take reports and annually for annual reports.

*Total Estimated Annual Nonhour Burden Cost:* \$78,000.

Respondent	Activity	Annual number of respondents	Number of submissions each	Total annual responses	Average time per response (hours)	Total annual burden hours*
<b>Annual Report—Depredation Order (Form 3–2436) 50 CFR § 21</b>						
Individuals .....	Reporting .....	8	1	8	3	24
	Recordkeeping .....				1	8
Private Sector .....	Reporting .....	8	1	8	3	24
	Recordkeeping .....				1	8
Government .....	Reporting .....	11	1	11	3	33
	Recordkeeping .....				1	11

Respondent	Activity	Annual number of respondents	Number of submissions each	Total annual responses	Average time per response (hours)	Total annual burden hours*
<b>(NEW) ePermits Annual Report—Depredation Order (Form 3–2436) 50 CFR § 21</b>						
Individuals .....	Reporting .....	8	1	8	2.5	20
	Recordkeeping .....				1	8
Private Sector .....	Reporting .....	8	1	8	2.5	20
	Recordkeeping .....				1	8
Government .....	Reporting .....	11	1	11	2.5	28
	Recordkeeping .....				1	11
<b>Report Take—Endangered, Threatened, and Candidate Species 50 CFR § 21.43, § 21.49–21.55, and § 21.61</b>						
Individuals .....	Reporting .....	1	1	1	.75	1
	Recordkeeping .....				.25	0
Private Sector .....	Reporting .....	3	1	3	.75	2
	Recordkeeping .....				.25	1
Government .....	Reporting .....	3	1	3	.75	2
	Recordkeeping .....				.25	1
<b>Conservation Order for Control of Light Geese 50 CFR § 21.60 (From 1018–0103)</b>						
Government .....	Reporting .....	39	1	39	106	4,134
	Recordkeeping .....				8	312
<b>Conservation Order Participants—Provide Information to States 50 CFR § 21.60 (From 1018–0103)</b>						
Individuals .....	Reporting .....	21,538	1	21,538	.13333	2,872
<b>Annual Report—Airport Control Order 50 CFR § 21.49 (From 1018–0133)</b>						
Private Sector .....	Reporting .....	25	1	25	1	25
	Recordkeeping .....				.5	13
Government .....	Reporting .....	25	1	25	1	25
	Recordkeeping .....				.5	13
<b>Initial Registration—Nest &amp; Egg Depredation Order 50 CFR § 21.50 (From 1018–0133)</b>						
Individuals .....	Reporting .....	126	1	126	.5	63
Private Sector .....	Reporting .....	674	1	674	.5	337
Government .....	Reporting .....	200	1	200	.5	100
<b>Renew Registration—Nest &amp; Egg Depredation Order 50 CFR § 21.50 (From 1018–0133)</b>						
Individuals .....	Reporting .....	374	1	374	0.25	94
Private Sector .....	Reporting .....	2,026	1	2,026	0.25	507
Government .....	Reporting .....	600	1	600	0.25	150
<b>Annual Report—Nest &amp; Egg Depredation Order 50 CFR § 21.50 (From 1018–0133)</b>						
Individuals .....	Reporting .....	500	1	500	.17	85
	Recordkeeping .....				.08	40
Private Sector .....	Reporting .....	2,700	1	2,700	.17	459
	Recordkeeping .....				.08	216
Government .....	Reporting .....	800	1	800	.17	136
	Recordkeeping .....				.08	64
<b>Recordkeeping—Agricultural Depredation Order 50 CFR § 21.51 (From 1018–0103)</b>						
Private Sector .....	Recordkeeping .....	600	1	600	0.5	300
<b>Annual Report—Agricultural Depredation Order 50 CFR § 21.51 (From 1018–0133)</b>						
Government .....	Reporting .....	20	1	20	7	140
	Recordkeeping .....				1	20
<b>Annual Report—Public Health Order 50 CFR § 21.52 (From 1018–0133)</b>						
Government .....	Reporting .....	20	1	20	.75	15
	Recordkeeping .....				.25	5
<b>Annual Report and Recordkeeping—Population Control Approval Request 50 CFR § 21.61 (From 1018–0133)</b>						
Government .....	Reporting .....	3	1	3	12	36
	Recordkeeping .....				12	36

Respondent	Activity	Annual number of respondents	Number of submissions each	Total annual responses	Average time per response (hours)	Total annual burden hours*
<b>Population Control Approval Request (Population and Distribution Estimates) 50 CFR § 21.61 (From 1018–0133)</b>						
Government .....	Reporting .....	3	1	3	160	480
<i>Totals:</i> .....	.....	30,334	.....	30,334	.....	10,887

\* Rounded to match ROCIS.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: August 21, 2020.

**Madonna Baucum,**

*Information Collection Clearance Officer, U.S. Fish and Wildlife Service.*

[FR Doc. 2020–18726 Filed 8–25–20; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS–R7–NWRS–2020–N083;  
FF07R08000F–XRS–1263–0700000–201;  
OMB Control Number 1018–0141]

### Agency Information Collection Activities; Alaska Guide Service Evaluation

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service, are proposing to renew an information collection with revisions.

**DATES:** Interested persons are invited to submit comments on or before October 26, 2020.

**ADDRESSES:** Send your comments on this information collection request (ICR) by mail to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to [Info\\_Coll@fws.gov](mailto:Info_Coll@fws.gov). Please reference OMB Control Number 1018–0141 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** Madonna L. Baucum, Service Information Collection Clearance Officer, by email at [Info\\_Coll@fws.gov](mailto:Info_Coll@fws.gov), or by telephone at (703) 358–2503. Individuals who are hearing or speech impaired may call the Federal Relay

Service at 1–800–877–8339 for TTY assistance.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

- (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;
- (2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your

comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Abstract:** We collect information via FWS Form 3–2349 (Alaska Guide Service Evaluation) to help us evaluate commercial guide services on our national wildlife refuges in the State of Alaska (State). The National Wildlife Refuge Administration Act of 1966, as amended (16 U.S.C. 668dd–ee), authorizes us to permit uses, including commercial visitor services, on national wildlife refuges when we find the activity to be compatible with the purposes for which the refuge was established. With the objective of making available a variety of quality visitor services for wildlife-dependent recreation on National Wildlife Refuge System lands, we issue permits for commercial guide services, including big game hunting, sport fishing, wildlife viewing, river trips, and other guided activities. We use FWS Form 3–2349 as a method to:

- Monitor the quality of services provided by commercial guides.
- Gauge client satisfaction with the services.

- Assess the impacts of the activity on refuge resources.

The client is the best source of information on the quality of commercial guiding services. We collect:

- Client name.
- Guide name(s).
- Type of guided activity.
- Dates and location of guided activity.

• Information on the services received, such as the client's expectations, safety, environmental impacts, and client's overall satisfaction.

We encourage respondents to provide any additional comments that they wish regarding the guide service or refuge experience, and ask whether or not they wish to be contacted for additional information.

The above information, in combination with State-required guide activity reports and contacts with guides and clients in the field, provides a comprehensive method for monitoring permitted commercial guide activities. A regular program of client evaluation helps refuge managers detect potential problems with guide services so that we can take corrective actions promptly. In addition, we use this information during the competitive selection process for big game and sport fishing guide permits to evaluate an applicant's ability to provide a quality guiding service.

The Service plans to review the current evaluation form to identify ways to improve the information collected to:

- Provide more quantifiable and defensible data;
- Provide statistical data for each completed and submitted form;
- Provide more quantifiable rather than qualitative information;
- Translate the client responses into useful information in order for refuge management to make informed decisions.

The Service plans to submit the updated evaluation form to OMB for approval to pre-test under the Department of the Interior Programmatic Clearance (OMB Control No. 1040–0001). After conclusion of the pre-testing during the calendar year 2020 Alaska guide season, the final evaluation form will be submitted to OMB for approval under this collection for full deployment prior to the calendar year 2021 Alaska guide season.

*Title of Collection:* Alaska Guide Service Evaluation.

*OMB Control Number:* 1018–0141.

*Form Number:* FWS Form 3–2349.

*Type of Review:* Extension of a currently approved collection.

*Respondents/Affected Public:* Clients of permitted commercial guide service providers.

*Total Estimated Number of Annual Respondents:* 264.

*Total Estimated Number of Annual Responses:* 264.

*Estimated Completion Time per Response:* 20 minutes.

*Total Estimated Number of Annual Burden Hours:* 88.

*Respondent's Obligation:* Voluntary.

*Frequency of Collection:* One time, following use of commercial guide services.

*Total Estimated Annual Nonhour Burden Cost:* None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: August 21, 2020.

**Madonna Baucum,**

*Information Collection Clearance Officer, U.S. Fish and Wildlife Service.*

[FR Doc. 2020–18727 Filed 8–25–20; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

**[201D0102DM, DS6CS00000, DLSN00000.000000, DX6CS25]; OMB Control Number 1090–NEW]**

### **Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Improving Customer Experience (OMB Circular A–11, Section 280 Implementation)**

**AGENCY:** Department of the Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the Department of the Interior are proposing a new information collection.

**DATES:** Interested persons are invited to submit comments on or before September 25, 2020.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Please provide a copy of your comments to Jeffrey Parrillo, Departmental Information Collection Clearance Officer, 1849 C Street NW, Washington, DC 20240; or by email to [DOI-PRA@ios.doi.gov](mailto:DOI-PRA@ios.doi.gov). Please reference OMB Control Number 1090–NEW, Improving Customer Experience (OMB Circular A–11, Section 280 Implementation) in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Amira Boland, Office of Government-wide Policy, 1800 F St. NW, Washington, DC 20405, or via email to [amira.boland@gsa.gov](mailto:amira.boland@gsa.gov) or by telephone at 202–395–5222. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other

Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on February 28, 2020 (85 FR 12010). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

- (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;
- (2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Abstract:** A modern, streamlined and responsive customer experience means: Raising government-wide customer experience to the average of the private sector service industry; developing indicators for high-impact Federal programs to monitor progress towards excellent customer experience and mature digital services; and providing



the structure (including increasing transparency) and resources to ensure customer experience is a focal point for agency leadership.

This proposed information collection activity provides a means to garner customer and stakeholder feedback in an efficient, timely manner in accordance with the Administration's commitment to improving customer service delivery as discussed in Section 280 of OMB Circular A-11 at <https://www.whitehouse.gov/wp-content/uploads/2018/06/s280.pdf>.

As discussed in OMB guidance, agencies should identify their highest-impact customer journeys (using customer volume, annual program cost, and/or knowledge of customer priority as weighting factors) and select touchpoints/transactions within those journeys to collect feedback.

These results will be used to improve the delivery of Federal services and programs. It will also provide government-wide data on customer experience that can be displayed on [www.performance.gov](http://www.performance.gov) to help build transparency and accountability of Federal programs to the customers they serve.

As a general matter, these information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

The Department of the Interior will only submit collections if they meet the following criteria.

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered is intended to be used for general service improvement and program management purposes;
- Upon agreement between OMB and the agency, all or a subset of information may be released as part of A-11, Section 280 requirements on [performance.gov](http://performance.gov). Summaries of customer research and

user testing activities may be included in public-facing customer journey maps;

- Additional release of data must be done in coordination with OMB.

These collections will allow for ongoing, collaborative and actionable communications between the Agency, its customers and stakeholders, and OMB as it monitors agency compliance on Section 280. These responses will inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on services will be unavailable.

*Title of Collection:* Improving Customer Experience (OMB Circular A-11, Section 280 Implementation).

*OMB Control Number:* 1090-NEW.

*Form Number:* None.

*Type of Review:* New.

*Respondents/Affected Public:* Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

*Total Estimated Number of Annual Respondents:* 146,384.

*Total Estimated Number of Annual Responses:* 146,384.

*Estimated Completion Time per Response:* Varied, dependent upon the possible response time to complete a questionnaire or survey may be 3 minutes up to 90 minutes to participate in an interview based on the data collection method used.

*Total Estimated Number of Annual Burden Hours:* 13,876.

*Respondent's Obligation:* Voluntary.

*Frequency of Collection:* One time.

*Total Estimated Annual Nonhour Burden Cost:* None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Signed:

**Jeffrey Parrillo,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2020-18779 Filed 8-25-20; 8:45 am]

**BILLING CODE 4334-63-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

[RR83550000, 201R5065C6, RX.59389832.1009676]

### Quarterly Status Report of Water Service, Repayment, and Other Water-Related Contract Actions

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice of contract actions.

**SUMMARY:** Notice is hereby given of contractual actions that have been proposed to the Bureau of Reclamation (Reclamation) and are new, discontinued, or completed since the last publication of this notice. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities consistent with section 9(f) of the Reclamation Project Act of 1939. Additional announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action.

**ADDRESSES:** The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the **SUPPLEMENTARY INFORMATION** section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Michelle Kelly, Reclamation Law Administration Division, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225-0007; [mkelly@usbr.gov](mailto:mkelly@usbr.gov); telephone 303-445-2888.

**SUPPLEMENTARY INFORMATION:** Consistent with section 9(f) of the Reclamation Project Act of 1939, and the rules and regulations published in 52 FR 11954, April 13, 1987 (43 CFR 426.22), Reclamation will publish notice of proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. Either

of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act. Pursuant to the "Final Revised Public Participation Procedures" for water resource-related contract negotiations, published in 47 FR 7763, February 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.
2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.
3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act, as amended.
4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.
5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.
6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his or her designated public contact as they become available for review and comment.
7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to, (i) the significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. At a minimum, the regional director will furnish revised contracts to all parties who requested the contract in response to the initial public notice.

#### Definitions of Abbreviations Used in the Reports

ARRA American Recovery and Reinvestment Act of 2009  
BCP Boulder Canyon Project  
Reclamation Bureau of Reclamation  
CAP Central Arizona Project  
CUP Central Utah Project  
CVP Central Valley Project  
CRSP Colorado River Storage Project  
XM Extraordinary Maintenance  
EXM Emergency Extraordinary Maintenance  
FR Federal Register  
IDD Irrigation and Drainage District  
ID Irrigation District  
M&I Municipal and Industrial  
O&M Operation and Maintenance  
OM&R Operation, Maintenance, and Replacement  
P-SMBP Pick-Sloan Missouri Basin Program  
RRA Reclamation Reform Act of 1982  
SOD Safety of Dams  
SRPA Small Reclamation Projects Act of 1956  
USACE U.S. Army Corps of Engineers  
WD Water District

*Columbia-Pacific Northwest—Interior Region 9:* Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706–1234, telephone 208–378–5344.

The Columbia-Pacific Northwest Region has no updates to report for this quarter.

*California-Great Basin—Interior Region 10:* Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5250.

#### New contract actions:

53. Shasta County Water Agency, CVP, California: Proposed partial assignment of 50 acre-feet of the Shasta County Water Agency's CVP water supply to the City of Shasta Lake for M&I use.

54. Friant Water Authority, CVP, California: Negotiation and execution of a repayment contract for Friant Kern Canal Middle Reach Capacity Correction Project.

#### Discontinued contract action:

11. Mendota Wildlife Area, CVP, California: Reimbursement agreement between the California Department of Fish and Wildlife and Reclamation for conveyance service costs to deliver Level 2 water to the Mendota Wildlife

Area during infrequent periods when the Mendota Pool is down due to unexpected but needed maintenance. This action is taken pursuant to Public Law 102–575, Title 34, Section 3406(d)(1), to meet full Level 2 water needs of the Mendota Wildlife Area.

17. Water user entities responsible for payment of O&M costs for Reclamation projects in California, Nevada, and Oregon: Contracts for extraordinary maintenance and replacement funded pursuant to ARRA. Added costs to rates to be collected under irrigation and interim M&I ratesetting policies.

#### Completed contract actions:

46. San Luis and Delta-Mendota Water Authority, CVP, California: Contract for repayment for XM and replacement funded pursuant to Subtitle G of Public Law 111–11. Contract executed June 29, 2020.

47. City of West Sacramento, CVP, California: Negotiation and execution of a 40-year long-term water service contract. Contract executed May 29, 2020.

*Lower Colorado Basin—Interior Region 8:* Bureau of Reclamation, P.O. Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8192.

#### New contract action:

19. City of Yuma, BCP, Arizona: Extend the term of the contract with the City for delivery of its Colorado River water entitlement to October 1, 2027, through Amendment No. 6.

#### Discontinued contract action:

4. City of Yuma, BCP, Arizona: Enter into a long-term consolidated contract with the City for delivery of its Colorado River water entitlement.

#### Completed contract actions:

10. San Carlos Apache Tribe and the Town of Gilbert, CAP, Arizona: Execute a CAP water lease for San Carlos Apache Tribe to lease 13,068 acre-feet of its CAP water to the Town of Gilbert during calendar year 2020. Lease executed March 24, 2020.

12. San Carlos Apache Tribe and Stone Applications, LLC, CAP, Arizona: Execute a CAP water lease for San Carlos Apache Tribe to lease 10,000 acre-feet of its CAP water to Stone Applications, LLC during calendar year 2020. Lease executed March 25, 2020.

*Upper Colorado Basin—Interior Region 7:* Bureau of Reclamation, 125 South State Street, Room 8100, Salt Lake City, Utah 84138–1102, telephone 801–524–3864.

#### Completed contract actions:

26. Ft. Sumner ID, Carlsbad Project, New Mexico: Reclamation is seeking a contract to lease water from the District for the forbearance of exercising their priority water rights on the Pecos River.

The contract proposal is for a term of 10 years and up to 3,500 acre-feet per year of forborne water to benefit endangered species and the Carlsbad Project. Contract executed December 23, 2019.

27. Pecos Valley Artesian Conservancy District, Carlsbad Project, New Mexico: Reclamation is seeking a contract to lease water from the District for the forbearance of surface water diversions from the Pecos River and the Hagerman Canal. This contract has a term of 10 years and up to 1,158 acre-feet of forborne water per year to benefit endangered species and the Carlsbad Project. Contract executed March 3, 2020.

28. The Jicarilla Nation, San Juan-Chama Project, New Mexico: Reclamation is seeking a multi-year contract to lease water with the Nation to stabilize flows in a critical reach of the Rio Grande in order to meet the needs of irrigators and the endangered silvery minnow. This contract has a 5-year term for up to 5,900 acre-feet of Project water per year. Contract executed March 20, 2020.

*New contract action:*

31. Navajo Tribal Utility Authority, Navajo-Gallup Water Supply Project, New Mexico: Reclamation is entering negotiations with the Navajo Tribal Utility Authority to provide excess capacity for non-project water, pursuant to Public Law 111–11, Section 10602(h).

*Missouri Basin—Interior Region 5:* Bureau of Reclamation, P.O. Box 36900, Federal Building, 2021 4th Avenue North, Billings, Montana 59101, telephone 406–247–7752.

*New contract actions:*

40. Griemsman L/S, LLC; Boysen Unit, P–SMBP; Wyoming: Consideration for renewal of water service contract No. 009E6A0012.

41. Glen Elder ID; Glen Elder Unit, P–SMBP; Kansas: Consideration of a repayment contract for XM funded pursuant to Subtitle G of Public Law 111–11.

43. H&RW ID; Frenchman-Cambridge Division, P–SMBP; Nebraska: Consideration for renewal of water service contract No. 5–07–70–W0738.

42. Milk River Joint Board of Control, Milk River Project, Montana: Consideration of a repayment contract for EXM funded pursuant to Subtitle G of Public Law 111–11.

*Discontinued contract action:*

34. Dickey-Sargent ID; Garrison Diversion Unit, P–SMBP; North Dakota: Consideration for a repayment contract for assigned power investment costs.

*Completed contract action:*

31. Fort Clark ID; Fort Clark Project, P–SMBP; North Dakota: Consideration for new 5-year water service contract to

replace expiring contract No. 159E620073. Contract executed May 15, 2020.

**Karl Stock,**

*Acting Director, Policy and Programs.*

[FR Doc. 2020–18751 Filed 8–25–20; 8:45 am]

**BILLING CODE 4332–90–P**

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000  
201S180110; S2D2S SS08011000  
SX064A000 20XS501520; OMB Control  
Number 1029–0107]

### Agency Information Collection Activities; Subsidence Insurance Program Grants

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before October 26, 2020.

**ADDRESSES:** Send your comments on this information collection request (ICR) by mail to Mark Gehlhar, Office of Surface Mining Reclamation and Enforcement, 1849 C. Street NW, Room 4556–MIB, Washington, DC 20240; or by email to [mgehlhar@osmre.gov](mailto:mgehlhar@osmre.gov). Please reference OMB Control Number 1029–0107 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Mark Gehlhar by email at [mgehlhar@osmre.gov](mailto:mgehlhar@osmre.gov), or by telephone at 202–208–2716.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public

comment addressing the following issues: (1) Is the collection necessary to the proper functions of the OSMRE; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the OSMRE enhance the quality, utility, and clarity of the information to be collected; and (5) how might the OSMRE minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Abstract:** States and Indian tribes having an approved reclamation plan may establish, administer and operate self-sustaining state and Indian tribe-administered programs to insure private property against damages caused by land subsidence resulting from underground mining. States and Indian tribes interested in requesting monies for their insurance programs would apply to the Director of OSMRE.

**Title of Collection:** Subsidence Insurance Program Grants.

**OMB Control Number:** 1029–0107.

**Form Number:** None.

**Type of Review:** Extension of a currently approved collection.

**Respondents/Affected Public:** States and Indian tribes with approved coal reclamation plans.

**Total Estimated Number of Annual Respondents:** 1.

**Total Estimated Number of Annual Responses:** 1.

**Estimated Completion Time per Response:** 8 hours.

**Total Estimated Number of Annual Burden Hours:** 8.

**Respondent's Obligation:** Required to Obtain or Retain a Benefit.

**Frequency of Collection:** One time.

**Total Estimated Annual Nonhour Burden Cost:** None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Mark J. Gehlhar,**

*Information Collection Clearance Officer,  
Division of Regulatory Support.*

[FR Doc. 2020–18737 Filed 8–25–20; 8:45 am]

BILLING CODE 4310–05–P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000  
201S180110; S2D2S SS08011000  
SX064A000 20XS501520; OMB Control  
Number 1029–0063]

#### Agency Information Collection Activities; Abandoned Mine Reclamation Fund—Fee Collection and Coal Production Reporting and Form OSM–1, Coal Reclamation Fee Report

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before October 26, 2020.

**ADDRESSES:** Send your comments on this information collection request (ICR) by mail to Mark Gehlhar, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Room 4556–MIB, Washington, DC 20240; or by email to [mgehlhar@osmre.gov](mailto:mgehlhar@osmre.gov). Please reference OMB Control Number 1029–0063 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Mark Gehlhar by email at [mgehlhar@osmre.gov](mailto:mgehlhar@osmre.gov), or by telephone at 202–208–2716.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the OSMRE; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the OSMRE enhance the quality, utility, and clarity of the information to be collected; and (5) how might the OSMRE minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Abstract:** The information is used to maintain a record of coal produced for sale, transfer, or use nationwide each calendar quarter, the method of coal removal and the type of coal, and the basis for coal tonnage reporting in compliance with 30 CFR 870 and section 401 of Public Law 95–87. Individual reclamation fee payment liability is based on this information. Without the collection of this information, OSMRE could not implement its regulatory responsibilities and collect the fee.

**Title of Collection:** Abandoned Mine Reclamation Fund—Fee Collection and Coal Production Reporting and form OSM–1, Coal Reclamation Fee Report.

**OMB Control Number:** 1029–0063.

**Form Number:** OSM–1.

**Type of Review:** Extension of a currently approved collection.

**Respondents/Affected Public:** Coal mine permittees.

**Total Estimated Number of Annual Respondents:** 6,000.

**Total Estimated Number of Annual Responses:** 8,000.

**Estimated Completion Time per Response:** 3 minutes.

**Total Estimated Number of Annual Burden Hours:** 400.

**Respondent's Obligation:** Mandatory.

**Frequency of Collection:** Annual.

**Total Estimated Annual Nonhour Burden Cost:** \$350,000.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Mark J. Gehlhar,**

*Information Collection Clearance Officer,  
Division of Regulatory Support.*

[FR Doc. 2020–18739 Filed 8–25–20; 8:45 am]

BILLING CODE 4310–05–P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000  
201S180110; S2D2S SS08011000  
SX064A000 20XS501520; OMB Control  
Number 1029–0054]

#### Agency Information Collection Activities; Abandoned Mine Reclamation Funds

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before October 26, 2020.

**ADDRESSES:** Send your comments on this information collection request (ICR) by mail to the Mark Gehlhar, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Room 4556–MIB, Washington, DC 20240; or by email to [mgehlhar@osmre.gov](mailto:mgehlhar@osmre.gov). Please reference OMB Control Number 1029–0054 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Mark Gehlhar by email at [mgehlhar@osmre.gov](mailto:mgehlhar@osmre.gov), or by telephone at 202–208–2716.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the

public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the OSMRE; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the OSMRE enhance the quality, utility, and clarity of the information to be collected; and (5) how might the OSMRE minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Abstract:** 30 CFR 872 establishes a procedure whereby States and Indian tribes submit written statements announcing the State/Tribe's decision not to submit reclamation plans, and therefore, will not be granted AML funds.

**Title of Collection:** Abandoned Mine Reclamation Funds.

**OMB Control Number:** 1029-0054.

**Form Number:** None.

**Type of Review:** Extension of a currently approved collection.

**Respondents/Affected Public:** State and Tribal abandoned mine land reclamation agencies.

**Total Estimated Number of Annual Respondents:** 6.

**Total Estimated Number of Annual Responses:** 100.

**Estimated Completion Time per Response:** 150 hours.

**Total Estimated Number of Annual Burden Hours:** 15,000.

**Respondent's Obligation:** Required to Obtain or Retain a Benefit.

**Frequency of Collection:** One time.

**Total Estimated Annual Nonhour Burden Cost:** None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

**Mark J. Gehlhar,**

*Information Collection Clearance Officer,  
Division of Regulatory Support.*

[FR Doc. 2020-18738 Filed 8-25-20; 8:45 am]

**BILLING CODE 4310-05-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-580]

### COVID-19 Related Goods: The U.S. Industry, Market, Trade, and Supply Chain Challenges; Notice of Institution of Investigation and Scheduling of a Public Hearing

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice of institution of investigation and scheduling of a public hearing.

**SUMMARY:** Following receipt on August 13, 2020, of a joint request from the House Committee on Ways and Means and the Senate Committee on Finance (the Committees), under section 332(g) of the Tariff Act of 1930, the U.S. International Trade Commission (Commission) instituted Investigation No. 332-580, *COVID-19 Related Goods: The U.S. Industry, Market, Trade, and Supply Chain Challenges*, for the purpose of providing a report that provides detailed information on COVID-related industry sectors and particular products identified in Commission inv. No. 332-576, *COVID-19 Related Goods, U.S. Imports and Tariffs*.

#### DATES:

**September 11, 2020:** Deadline for filing requests to appear at the public hearing.

**September 14, 2020:** Deadline for filing prehearing briefs and statements.

**September 21, 2020:** Deadline for filing copies of oral testimony to be presented at the hearing.

**September 23, 2020:** Public hearing.

**September 30, 2020:** Deadline for filing post-hearing briefs and statements.

**October 2, 2020:** Deadline for filing all other written submissions.

**December 15, 2020:** Transmittal of Commission report to the Committees.

**ADDRESSES:** All Commission offices are located in the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. All written submissions should be submitted electronically and addressed to the

Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Co-Project Leader Samantha DeCarlo (202-205-3165 or [samantha.decarlo@usitc.gov](mailto:samantha.decarlo@usitc.gov)) or Co-Project Leader Andrew David (202-205-3368 or [andrew.david@usitc.gov](mailto:andrew.david@usitc.gov)) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202-205-3091 or [william.gearhart@usitc.gov](mailto:william.gearhart@usitc.gov)). The media should contact Margaret O'Laughlin, Office of External Relations (202-205-1819 or [margaret.olaughlin@usitc.gov](mailto:margaret.olaughlin@usitc.gov)). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its website (<https://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

**Background:** As requested by the Committees, the Commission will conduct an investigation and prepare a report that provides, to the extent practical, the following information:

- A brief overview of key U.S. industry sectors producing COVID-related goods, including, but not limited to, medical devices; personal protective equipment; and medicines (pharmaceuticals). These overviews should include, to the extent practicable, information on U.S. production, employment, and trade.

- More detailed case studies on key products within each relevant industry sector, such as N95 respirators, ventilators, vaccines, and COVID-19 test kits. The Committees stated that they are particularly interested in case studies on products for which there were reported shortages in the first half of 2020, including those affected by supply chain fragility, blockages, or barriers. The Committees stated that the case studies should draw upon all available information including the relevant literature, and to the extent practicable, should include information on:

- The U.S. industry, market, and trade, including, to the extent available:
  - An overview of the product, including key components and the production process;
  - Information on the size and characteristics of the U.S. market;

- An overview of the U.S. manufacturing industry, including key producers of finished goods and intermediate inputs, the extent of U.S. production, and employment;
- Information on U.S. imports of finished goods and inputs, including leading source countries and supplying firms (to the extent available); and
  - Information on supply chain challenges and constraints, including, but not limited to:
    - Information on factors affecting domestic production, including, to the extent practicable, regulatory requirements that may impact entry into the market; and
    - Information on foreign trade barriers and restrictions and other factors that may affect U.S. imports of finished goods or inputs needed for domestic production.

The Committees asked that the Commission deliver the report no later than December 15, 2020. The Committees stated that they intend to make the Commission's report available to the public and asked that the report not include any confidential business information.

**Public Hearing:** A public hearing in connection with this investigation will be held beginning at 9:30 a.m. on September 23, 2020, using a videoconference platform. More detailed information about the hearing, including how to participate, will be posted on the Commission's website at ([https://usitc.gov/research\\_and\\_analysis/what\\_we\\_are\\_working\\_on.htm](https://usitc.gov/research_and_analysis/what_we_are_working_on.htm)). Once on that web page, scroll down to the entry for Investigation No. 332–580, *COVID–19 Related Goods: The U.S. Industry, Market, Trade, and Supply Chain Challenges*, and click on the link to “Hearing Information.” Interested parties should check the Commission's website periodically for updates.

Requests to appear at the public hearing should be filed with the Secretary no later than 5:15 p.m., September 11, 2020, in accordance with the requirements in the “Written Submissions” section below. All prehearing briefs and statements should be filed not later than 5:15 p.m., September 14, 2020, and all post-hearing briefs and statements should be filed not later than 5:15 p.m., September 30, 2020. Post-hearing briefs and statements should address matters raised at the hearing. To facilitate the hearing, including the preparation of an accurate written transcript of the hearing, oral testimony to be presented at the hearing must be submitted to the Commission electronically no later than the close of business September 21,

2020. In the event that, as of the close of business on September 11, 2020, no witnesses are scheduled to appear at the hearing, the hearing will be canceled.

**Written Submissions:** In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., October 2, 2020. All written submissions must conform to the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8), as temporarily amended by 85 FR 15798 (March 19, 2020). Under that rule waiver, the Office of the Secretary will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202–205–1802), or consult the Commission's Handbook on Filing Procedures.

**Confidential Business Information:** Any submissions that contain confidential business information must also conform to the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the “confidential” or “non-confidential” version, and that the confidential business information is clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

As requested by the Committees, the Commission will not include any confidential business information in the report that it sends to the Committees. However, all information, including confidential business information, submitted in this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel (a) for cybersecurity purposes

or (b) in monitoring user activity on U.S. government classified networks. The Commission will not otherwise disclose any confidential business information in a way that would reveal the operations of the firm supplying the information.

**Summaries of Written Submissions:** Persons wishing to have a summary of their position included in the report should include a summary with their written submission and should mark the summary as having been provided for that purpose. The summary should be clearly marked as “summary for inclusion in the report” at the top of the page. The summary may not exceed 500 words, should be in MS Word format or a format that can be easily converted to MS Word, and should not include any confidential business information. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. The Commission will list the name of the organization furnishing the summary and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.

Issued: August 21, 2020.

**William Bishop,**  
Supervisory Hearings and Information  
Officer.

[FR Doc. 2020–18796 Filed 8–25–20; 8:45 am]

BILLING CODE 7020–02–P

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–345]

### Recent Trends in U.S. Services Trade, 2021 Annual Report

**AGENCY:** United States International Trade Commission.

**ACTION:** Schedule for 2021 report and opportunity to submit information.

**SUMMARY:** The Commission has prepared and published annual reports in this series under Investigation No. 332–345, *Recent Trends in U.S. Services Trade*, since 1996. The 2021 report, which the Commission plans to publish in April 2021, will provide aggregate data on cross-border trade in services for the period ending in 2019, and transactions by affiliates based outside the country of their parent firm for the period ending in 2018. The report's analysis will focus on professional services (including management consulting services, research and development services, education services, healthcare services, architecture and engineering services,

and legal services). The Commission is inviting interested members of the public to furnish information and views in connection with the 2021 report.

**DATES:** September 28, 2020: Deadline for filing written submissions.

April 7, 2021: Anticipated date for online publication of the report.

**ADDRESSES:** All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E St. SW, Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E St. SW, Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket information system (EDIS) at <https://edis.usitc.gov/>.

**FOR FURTHER INFORMATION CONTACT:**

Information specific to this investigation may be obtained from Junie Joseph, Project Leader, Office of Industries, Services Division (202–205–3363, [junie.joseph@usitc.gov](mailto:junie.joseph@usitc.gov)), Sarah Oliver, Deputy Project Leader, Office of Industries, Services Division (202–205–3288, [sarah.oliver@usitc.gov](mailto:sarah.oliver@usitc.gov)), or Services Division Chief Martha Lawless (202–205–3497, [martha.lawless@usitc.gov](mailto:martha.lawless@usitc.gov)). For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091; [william.gearhart@usitc.gov](mailto:william.gearhart@usitc.gov)). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819; [margaret.olaughlin@usitc.gov](mailto:margaret.olaughlin@usitc.gov)). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its website (<https://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

**SUPPLEMENTARY INFORMATION:**

*Background:* The 2021 annual services trade report will provide aggregate data on cross-border trade in services for 2019 and affiliate transactions in services for 2018, and more specific data and information on trade in professional services (management consulting, research and development, education, healthcare, architecture and engineering, and legal services). Under Commission Investigation No. 332–345, the Commission publishes two annual reports, one on services trade (Recent Trends in U.S. Services Trade), and a second on merchandise trade (Shifts in

U.S. Merchandise Trade). The Commission's 2020 Recent Trends in U.S. Services Trade report is now available online at <https://www.usitc.gov>.

The initial notice of institution of this investigation was published in the **Federal Register** on September 8, 1993 (58 FR 47287) and provided for what is now the report on merchandise trade. The Commission expanded the scope of the investigation to cover services trade in a separate report, which it announced in a notice published in the **Federal Register** on December 28, 1994 (59 FR 66974). The separate report on services trade has been published annually since 1996, except in 2005. As in past years, the report will summarize trade in services in the aggregate and provide analyses of trends and developments in selected services industries during the latest period for which data are published by the U.S. Department of Commerce, Bureau of Economic Analysis.

*Written Submissions:* Interested parties are invited to file written submissions and other information concerning the matters to be addressed by the Commission in its 2021 report. For the 2021 report, the Commission is particularly interested in receiving information relating to trade in professional services (management consulting, research and development, education, healthcare, architecture and engineering, and legal services services). Submissions should be addressed to the Secretary. To be assured of consideration by the Commission, written submissions related to the Commission's report should be submitted at the earliest practical date and should be received not later than 5:15 p.m., September 28, 2020. All written submissions must conform to the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8), as temporarily amended by 85 FR 15798 (March 19, 2020). Under that rule waiver, the Office of the Secretary will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202–205–1802), or consult the Commission's Handbook on Filing Procedures.

*Confidential business information.*

Any submissions that contain confidential business information (CBI)

must also conform with the requirements in section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are confidential or non-confidential, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission intends to prepare only a public report in this investigation. The report that the Commission makes available to the public will not contain confidential business information. However, all information, including confidential business information, submitted in this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel solely for cybersecurity purposes. The Commission will not otherwise disclose any confidential business information in a manner that would reveal the operations of the firm supplying the information.

*Summaries of Written Submissions:* The Commission intends to publish summaries of the positions of interested persons in this report. If you wish to have a summary of your position included in an appendix of the report, please include a summary with your written submission and mark the summary as submitted for that purpose. The summary may not exceed 500 words, should be in MSWord format or a format that can be easily converted to MSWord, and should not include any confidential business information. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. In the report the Commission will identify the name of the organization furnishing the summary and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.



Issued: August 21, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2020-18776 Filed 8-25-20; 8:45 am]

BILLING CODE 7020-02-P

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1133]

### **Certain Unmanned Aerial Vehicles and Components Thereof; Final Determination Finding a Violation of Section 337 and Issuance of Remedial Orders; Suspension of Enforcement of the Remedial Orders Pending Final Resolution of a Final Written Decision by the Patent Trial and Appeal Board; and Termination of the Investigation**

**AGENCY:** International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission (the “Commission”) has determined that: (i) The respondents have violated Section 337 of the Tariff Act of 1930, as amended, by importing, selling for importation, or selling in the United States after importation certain unmanned aerial vehicles (“UAVs”) that infringe complainant’s U.S. Patent No. 9,260,184 (“the ‘184 patent”); (2) the respondents’ redesigned rotor locking assemblies were not ripe for adjudication in this investigation; (3) the appropriate remedies are a limited exclusion order and cease and desist orders; and (4) enforcement of said remedial orders will be suspended pending final resolution of a Final Written Decision by the Patent and Trademark Office (“PTAB”) that the asserted claims of the ‘184 patent are unpatentable. This investigation is terminated.

**FOR FURTHER INFORMATION CONTACT:** Carl P. Bretscher, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2382. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket system (“EDIS”) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the

Commission’s TDD terminal, telephone (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on October 2, 2018, based on a complaint filed by Autel Robotics USA, Inc. (“Autel”) of Bothell, Washington. 83 FR 49575-76 (Oct. 2, 2018). The complaint accuses respondents of violating 19 U.S.C. 1337 of the Tariff Act of 1930, as amended (“Section 337”) by importing into the United States, selling for importation, or selling in the United States after importation certain unmanned aerial vehicles and components thereof that infringe the asserted claims of the ‘184 patent as well as of U.S. Patent Nos. 7,979,174 (“the ‘174 patent”) and 10,044,013 (“the ‘013 patent”). *Id.* The complaint also alleges the existence of a domestic industry. *Id.*

The notice of investigation named the following respondents: SZ DJI Technology Co. Ltd. of Shenzhen, China; DJI Europe B.V. of Barendrecht, Netherlands; DJI Technology Inc. of Burbank, California; iFlight Technology Co., Ltd. (“iFlight”) of Hong Kong; DJI Baiwang Technology Co. Ltd. of Shenzhen, China; DJI Research LLC of Palo Alto, California; DJI Service LLC (“DJI Service”) of Cerritos, California; and DJI Creative Studio LLC of Burbank, California (collectively, “DJI”). *Id.* The Office of Unfair Import Investigations is not a party to this investigation. *Id.*

On September 13, 2019, the presiding Administrative Law Judge (“ALJ”) issued Order No. 21, granting in part Autel’s motion to strike evidence and expert opinions relating to DJI’s “new designs” for rotor and battery locking mechanisms that DJI allegedly disclosed after the close of discovery. Order No. 21 at 2-4 (Sept. 13, 2019).

On October 17, 2019, the Commission determined not to review Order No. 22, which partially terminated the investigation with respect to certain patent claims withdrawn by Autel. Order No. 22 (Sept. 30, 2019), *unreviewed by Comm’n Notice* (Oct. 17, 2019). The claims that remained at issue are claims 1, 2, and 5 of the ‘184 patent; claims 1, 7, 8, 14, and 17 of the ‘174 patent; and claims 1, 3-5, 8, 10, 13-16, 18, 22, or 23 of the ‘013 patent.

The ALJ held an evidentiary hearing on October 21-23, 2019. At the start of that hearing, the ALJ announced that DJI’s new designs are not part of this investigation.

On March 2, 2020, the ALJ issued a combined Initial Determination on Violation of Section 337 (“ID”) and Recommended Determination (“RD”) on Remedy and Bonding, finding a

violation of Section 337 by way of infringement of the ‘184 patent but no violation with respect to the ‘174 or ‘013 patents. On March 9, 2020, the ALJ issued an errata, which corrects a misstatement in the original ID regarding the ‘174 patent but does not change the ID’s findings on infringement or violation. *See* Notice of Errata to Final Initial Determination (Mar. 9, 2020).

On March 16, 2020, the parties filed petitions for review of certain findings in the final ID, pursuant to Commission Rule 210.43(a) (19 CFR 210.43(a)). The parties filed their respective responses on March 24, 2020, pursuant to Commission Rule 210.43(c) (19 CFR 210.43(c)).

On May 15, 2020, the Commission issued a notice soliciting public comments on the public interest factors, if any, that may be implicated if a remedy were to be issued in this investigation. 85 FR 30735 (May 20, 2020). The Commission did not receive any comments in response to its notice.

On May 29, 2020, while the petitions for review were still pending before the Commission, respondents’ counsel filed a letter with the Commission attaching four recent Final Written Decisions by the Patent Trial and Appeal Board (“PTAB”) of the U.S. Patent and Trademark Office, in which the PTAB found the challenged claims of the ‘184, ‘174, and ‘013 patents, including the claims asserted in this investigation, to be unpatentable. *See SZ DJI Technology Co. v. Autel Robotics USA LLC*, Case IPR2019-00343, Final Written Decision Finding All Challenged Claims Unpatentable (PTAB May 21, 2020) (regarding ‘184 patent); *SZ DJI Technology Co. v. Autel Robotics USA LLC*, Case IPR2019-00250, Final Written Decision Finding All Challenged Claims Unpatentable (PTAB May 13, 2020) (regarding ‘174 patent); *SZ DJI Technology Co. v. Autel Robotics USA LLC*, Case IPR2019-00249, Final Written Decision Finding All Challenged Claims Unpatentable (PTAB May 13, 2020) (regarding ‘174 patent); *SZ DJI Technology Co. v. Autel Robotics USA LLC*, Case IPR2019-00016, Final Written Decision Finding All Challenged Claims Unpatentable (PTAB May 14, 2020) (regarding ‘013 patent).

On June 8, 2020, the Commission issued a notice stating that it determined to partially review the ID with respect to infringement of the ‘184 patent, whether DJI’s new rotor locking assemblies should be adjudicated as part of this investigation, and the impact on this investigation, if any, of the PTAB’s Final Written Decision finding the challenged claims of the ‘184 patent



unpatentable. Comm'n Notice at 2–3 (June 9, 2020). The Commission determined not to review the ID's findings that the asserted claims of the '184 patent are not invalid, the domestic industry requirement is satisfied, and there is no violation of Section 337 with respect to either the '174 or '013 patents. *Id.* The Commission asked the parties to brief several questions regarding: (i) The impact, if any, of the PTAB's Final Written Decision finding that asserted claims of the '184 patent, among others, are unpatentable; (ii) whether DJI's new rotor locking designs should be adjudicated as part of this investigation; and (iii) whether DJI's Phantom 4 Pro and Inspire UAVs infringe the asserted claims of the '184 patent. *Id.* at 3–4. The Commission also asked the parties for briefing on remedy, bonding, and the public interest and extended the target date for completion of this investigation to August 10, 2020. *Id.* at 4–5. The target date was further extended to August 20, 2020. Comm'n Notice (August 10, 2020).

The parties filed their initial responses to the Commission's review questions on June 24, 2020, and their respective reply briefs on July 1, 2020.

Having considered the parties' submissions, the ID, and the record in this investigation, the Commission has determined that DJI has violated Section 337 by importing into the United States, selling for importation, or selling in the United States after importation certain unmanned aerial vehicles and components thereof that infringe claims 1 and 2 of the '184 patent. In particular, the parties did not petition for review of the ID's findings that DJI's Mavic Pro, Mavic Air, and Spark UAVs infringe claim 1 of the '184 patent. The Commission has determined that those UAVs also infringe claim 2 and that DJI's Phantom 4 Pro UAV infringes both claims 1 and 2. The Commission further determines that DJI's Inspire UAV does not infringe either claim 1 or 2 of the '184 patent. The Commission also affirms the ALJ's decision not to adjudicate DJI's new rotor locking designs in the present investigation.

The Commission has determined that the appropriate remedy is: (a) A limited exclusion order prohibiting the importation of certain unmanned aerial vehicles and components thereof that are covered by claims 1 or 2 of the '184 patent; and (b) cease and desist orders against respondents iFlight and DJI Service. The Commission has determined that the public interest factors enumerated in Section 337(d)(1) and (f)(1) do not preclude issuance of the limited exclusion order or cease and desist orders. The Commission has also determined to set a bond in the amount

of 11.5 percent of the entered value of the excluded products imported during the period of Presidential review (19 U.S.C. 1337(j)).

The Commission has also determined to suspend enforcement of the limited exclusion order, cease and desist orders, and bond provision pending final resolution of the PTAB's Final Written Decision regarding the '184 patent. *See* 35 U.S.C. 318(b); *SZ DJI Technology Co. v. Autel Robotics USA, LLC*, IPR2019–00343, Patent 9,260,184, Final Written Decision Determining All Challenged Claims Unpatentable (May 21, 2020).

The Commission's orders and opinion were delivered to the President and United States Trade Representative on the day of their issuance.

The Commission voted to approve these determinations on August 20, 2020. This investigation is hereby terminated.

The authority for the Commission's determination is contained in Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: August 20, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2020–18695 Filed 8–25–20; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF LABOR

### Office of the Assistant Secretary for Administration and Management

#### Agency Information Collection Activities; Comment Request; Department of Labor Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, “Department of Labor Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.” This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

**DATES:** Consideration will be given to all written comments received by October 26, 2020.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free by contacting Crystal Rennie by telephone at (202) 693–0456, TTY 202–693–8064, (these are not toll-free numbers) or by email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Office of the Assistant Secretary for Administration, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; by email: [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

**FOR FURTHER INFORMATION CONTACT:** Crystal Rennie by telephone at (202) 693–0456, TTY 202–693–8064, (this is not a toll-free number) or by email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

**SUPPLEMENTARY INFORMATION:** The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback, we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences, and expectations; provide an early warning of issues with service; or focus attention on areas where communication, training, or changes, in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative, and actionable communications between the DOL and its customers and stakeholders. The collections will also allow feedback to contribute directly to

the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative result.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB under the PRA approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Written comments will receive consideration, and summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention 1225-0088.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility.

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* DOL-OASAM.

*Type of Review:* New.

*Title of Collection:* Department of Labor Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

*OMB Control Number:* 1225-0088.

*Affected Public:* Individuals or Households; State Local, and Tribal Governments; and Private Sector—businesses or other for-profits, farms, and not for profit institution.

*Estimated Number of Respondents:* 380,000.

*Total Estimated Annual Responses:* 380,000.

*Estimated Total Annual Burden Hours:* 38,000 hours.

*Total Estimated Annual Other Cost Burden:* \$0.

*Authority:* 44 U.S.C. 3506(c)(2)(A).

**Crystal Rennie,**

*Acting Departmental Clearance Officer.*

[FR Doc. 2020-18710 Filed 8-25-20; 8:45 am]

**BILLING CODE 4510-04-P**

---

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA-2020-058]

### Freedom of Information Act (FOIA) Advisory Committee Meeting

**AGENCY:** Office of Government Information Services (OGIS), National Archives and Records Administration (NARA).

**ACTION:** Notice of Federal advisory committee meeting.

**SUMMARY:** We are announcing an upcoming Freedom of Information Act (FOIA) Advisory Committee meeting in accordance with the Federal Advisory Committee Act and the second United

States Open Government National Action Plan.

**DATES:** The meeting will be on September 10, 2020, from 1:00 p.m. to 4:00 p.m. EDT. You must register by midnight EDT September 8, 2020, to attend the meeting.

**ADDRESSES:** This meeting will be held virtually. We will send instructions on how to access it to those who register according to the instructions below.

**FOR FURTHER INFORMATION CONTACT:** Kirsten Mitchell, Designated Federal Officer for this committee, by email at [foia-advisory-committee@nara.gov](mailto:foia-advisory-committee@nara.gov) or by telephone at 202.741.5770.

**SUPPLEMENTARY INFORMATION:** *Agenda and meeting materials:* We will post all meeting materials at <https://www.archives.gov/ogis/foia-advisory-committee/2020-2022-term>.

This will be the first meeting of the new committee term. The purpose of this meeting will be to introduce all of the members, hear a report from the co-chairs of the Chief FOIA Officers' Council Technology Committee, and discuss topics for the Committee to consider in the next two years.

*Procedures:* This virtual meeting is open to the public. You must register in advance through the Eventbrite link <https://foiaac-mtg-sep-10-2020.eventbrite.com> if you wish to attend, and you must provide an email address so that we can provide you with information to access the meeting online. To request additional accommodations (e.g., a transcript), email [foia-advisory-committee@nara.gov](mailto:foia-advisory-committee@nara.gov) or call 202.741.5770. Members of the media who wish to register, those who are unable to register online, and those who require special accommodations, should contact Kirsten Mitchell (contact information listed above).

**Maureen MacDonald,**

*Designated Committee Management Officer.*

[FR Doc. 2020-18681 Filed 8-25-20; 8:45 am]

**BILLING CODE 7515-01-P**

---

## NATIONAL SCIENCE FOUNDATION

### Advisory Committee for Cyberinfrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation (NSF) announces the following meeting:

*Name and Committee Code:* Advisory Committee for Cyberinfrastructure (25150).

**Date and Time:** September 22, 2020; 10:00 a.m.–5:30 p.m.; September 23, 2020; 9:30 a.m.–3:00 p.m.

**Place:** National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314 (Virtual).

This meeting will be held virtually. The final meeting agenda and instructions to register will be posted on the ACCI website: <https://www.nsf.gov/cise/oac/advisory.jsp>.

**Type of Meeting:** Open.

**Contact Person:** Amy Friedlander, CISE, Office of Advanced Cyberinfrastructure, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone: 703–292–8970.

**Minutes:** May be obtained from the contact person listed above.

**Purpose of Meeting:** To advise NSF on the impact of its policies, programs and activities in the OAC community. To provide advice to the Director/NSF on issues related to long-range planning.

**Agenda:** Updates on NSF wide OAC activities.

Dated: August 21, 2020.

**Crystal Robinson,**  
Committee Management Officer.

[FR Doc. 2020–18787 Filed 8–25–20; 8:45 am]

**BILLING CODE 7555–01–P**

## NUCLEAR REGULATORY COMMISSION

[NRC–2018–0137]

### Licensee Actions To Address Nonconservative Technical Specifications

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft regulatory guide; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is re-issuing for public comment draft regulatory guide (DG) DG–1351 (proposed new Regulatory Guide 1.239), originally titled, “Dispositioning of Technical Specifications that are Insufficient to Ensure Plant Safety.” This DG has been revised to include changes as a result of the public comments received in the original publication of DG–1351 in 2018 and the issuance of Revision 3 of Nuclear Energy Institute (NEI) 15–03, “Licensee Actions to Address Nonconservative Technical Specifications,” in 2020. This revision of DG–1351 (Revision 1) removes the exceptions and clarifications that were in the 2018 version of DG–1351 and endorses NEI 15–03, Revision 3. The title of this DG–1351 has also changed

to “Licensee Actions to Address Nonconservative Technical Specifications.”

**DATES:** Submit comments by September 25, 2020. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

**ADDRESSES:** You may submit comments by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for NRC Docket ID NRC–2018–0137. Address questions about NRC dockets IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: [Jennifer.Borges@nrc.gov](mailto:Jennifer.Borges@nrc.gov). For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **Mail Comments to:** Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Shawn Williams, Office of Nuclear Reactor Regulation, telephone: 301–415–1009, email: [Shawn.Williams@nrc.gov](mailto:Shawn.Williams@nrc.gov) and Robert Roche-Rivera, Office of Nuclear Regulatory Research, telephone: 301–415–8113, email: [Robert.Roche-Rivera@nrc.gov](mailto:Robert.Roche-Rivera@nrc.gov). Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

#### SUPPLEMENTARY INFORMATION:

##### I. Obtaining Information and Submitting Comments

###### A. Obtaining Information

Please refer to Docket ID NRC–2018–0137 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC–2018–0137.
- **NRC’s Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room reference staff at 1–800–397–4209, 301–415–4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the “Availability of Documents” section.

###### B. Submitting Comments

Please include Docket ID NRC–2018–0137 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

##### II. Additional Information

The NRC is issuing for public comment a draft guide in the NRC’s “Regulatory Guide” series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the agency’s regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs in its review of applications for permits and licenses.

The DG, titled, “Licensee Actions to Address Nonconservative Technical Specifications,” is a proposed new Regulatory Guide 1.239 and is temporarily identified by its task number, DG–1351, Revision 1. This DG provides methods and procedures that are acceptable to the NRC staff for licensee actions to address nonconservative technical specifications.

The DG-1351 was issued originally for public comment on July 5, 2018 (83 FR 31429), and it endorsed NEI 15-03, Revision 2, with exceptions and clarifications. On October 17, 2019, the NRC staff held a public meeting to discuss the staff's disposition of public comments on DG-1351. Subsequently, by letter dated April 9, 2020, the NEI submitted Revision 3 of NEI 15-03 to address the exceptions and clarifications in DG-1351. The NRC review of the April 9 submittal determined that NEI 15-03, as revised, is acceptable and addresses the exceptions and clarifications in DG-1351. As a result, the NRC revised DG-1351 to remove the exceptions and clarifications. Members of the public that submitted comments on the July 5, 2018, version of DG-1351 and believe

such comments are not adequately addressed in the updated DG-1351, Revision 1, are encouraged to resubmit their comments or provide additional comments.

If the NRC finalizes DG-1351, Revision 1, and issues RG 1.239, then the NRC would also withdraw Administrative Letter (AL) 98-10, "Dispositioning of Technical Specifications That Are Insufficient to Assure Plant Safety."

### III. Backfitting, Forward Fitting, and Issue Finality

DG-1351, Revision 1, if finalized, would provide guidance on licensee actions to address nonconservative technical specifications. Issuance of DG-1351, Revision 1, if finalized, would not constitute backfitting as defined in title 10 of the *Code of Federal*

*Regulations* (10 CFR) section 50.109, "Backfitting," and as described in NRC Management Directive (MD) 8.4, "Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests"; constitute forward fitting as that term is defined and described in MD 8.4; or affect the issue finality of any approval issued under 10 CFR part 52, "Licenses, Certificates, and Approvals for Nuclear Power Plants." As explained in this DG, applicants and licensees are not required to comply with the positions set forth in this DG.

### IV. Availability of Documents

The documents identified in the following table are available to interested persons through ADAMS under the respective ADAMS Accession numbers identified in the table.

Document	ADAMS Accession No.
DG-1351, Revision 1, Licensee Actions to Address Nonconservative Technical Specifications, August 2020.	ML20142A489.
DG-1351, Dispositioning of Technical Specifications that are Insufficient to Ensure Plant Safety, July 2018	ML18086A690.
NEI 15-03, Revision 2, Licensee Actions to Address Nonconservative Technical Specifications, September 2017.	ML17276A642.
Summary of October 17, 2019, Meeting with NEI Regarding DG-1351 .....	ML19298B110.
Draft NRC Staff Responses to Public Comments on DG-1351 .....	ML19267A108.
NEI 15-03, Revision 3, Licensee Actions to Address Nonconservative Technical Specifications, March 2020.	ML20100G899 (Package).
AL 98-10, Dispositioning of Technical Specifications That Are Insufficient to Assure Plant Safety .....	ML031110108.
Management Directive 8.4, Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests.	ML18093B087.

Dated: August 21, 2020.

For the Nuclear Regulatory Commission.

**Meraj Rahimi,**

*Acting Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.*

[FR Doc. 2020-18797 Filed 8-25-20; 8:45 am]

**BILLING CODE 7590-01-P**

## POSTAL SERVICE

### Board of Governors; Sunshine Act Meeting

**TIME AND DATE:** August 21, 2020, at 12:06 p.m.

**PLACE:** Washington, DC.

**STATUS:** Closed.

#### ITEMS CONSIDERED:

1. Administrative Issues.
2. Strategic Issues.

On August 21, 2020, a majority of the members of the Board of Governors of the United States Postal Service voted unanimously to hold and to close to public observation a special meeting in Washington, DC, via teleconference. The Board determined that no earlier public notice was practicable.

**GENERAL COUNSEL CERTIFICATION:** The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

**CONTACT PERSON FOR MORE INFORMATION:** Michael J. Elston, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260-1000. Telephone: (202) 268-4800.

**Michael J. Elston,**  
*Secretary.*

[FR Doc. 2020-18841 Filed 8-24-20; 11:15 am]

**BILLING CODE 7710-12-P**

## POSTAL SERVICE

### Board of Governors; Sunshine Act Meeting

**TIME AND DATE:** August 20, 2020, at 11:10 a.m.

**PLACE:** Washington, DC.

**STATUS:** Closed.

#### ITEMS CONSIDERED:

1. Administrative Issues.
2. Strategic Issues.

On August 20, 2020, a majority of the members of the Board of Governors of

the United States Postal Service voted unanimously to hold and to close to public observation a special meeting in Washington, DC, via teleconference. The Board determined that no earlier public notice was practicable.

**GENERAL COUNSEL CERTIFICATION:** The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

**CONTACT PERSON FOR MORE INFORMATION:** Michael J. Elston, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260-1000. Telephone: (202) 268-4800.

**Michael J. Elston,**  
*Secretary.*

[FR Doc. 2020-18840 Filed 8-24-20; 11:15 am]

**BILLING CODE 7710-12-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89623; File No. SR–NASDAQ–2020–045]

### Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update Obsolete References to NASD Rules in the Nasdaq Rulebook

August 20, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on August 7, 2020, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to update obsolete references to NASD rules in the Nasdaq rulebook (“Rulebook”) and make other related changes.

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

In 2008, the Financial Industry Regulatory Authority (FINRA) began a

process to harmonize and streamline its rules by retiring, consolidating, and relocating NASD rules into the FINRA rulebook.<sup>3</sup> Consistent with those changes, the Exchange is proposing to replace outdated NASD references in its Rulebook, delete unnecessary or duplicative rule text, and consolidate certain Nasdaq rules.

Generally, where appropriate, the Exchange will replace the term “Association” and the “NASD” acronym with the acronym “FINRA.” Specifically, Nasdaq will provide cites to the updated FINRA rules and current internal references as provided in the relocated FINRA rules. Additionally, the Exchange proposes to update internal cross-references as necessary.

###### A. Global Changes

As previously indicated, Nasdaq proposes to replace the terms “Association” and/or “NASD” with the term “FINRA,” without making other accompanying changes to the rules (this will also include a few, necessary grammatical changes, such as removing where appropriate the word “the”). Accordingly, the Exchange will update Rules 2830; 3360; 11210; IM–11710; 11860; 11870; General 1; General 2, Section 5; General 2, Section 7; General 9, Section 21; General 9, Section 33; and Equity 7, Section 111. The Exchange notes that it will not update references to NASD notices in its Rulebook. Specifically, the notices referenced in General 9, Section 20(e) (“NASD Notice to Members 97–19”) and Rule 4630(d) (“NASD Notice to Members 91–45”) will remain unchanged.

###### B. Specific Rule Changes

The Exchange proposes the following changes to capture the amendments and relocation of rules in the FINRA rulebook. Additionally, the cross-references updates are intended to keep the Nasdaq rules aligned with their corresponding FINRA rules:

Nasdaq Rule 2830. Investment Company Securities

The Exchange proposes to update the NASD Rule 2830 reference in this rule and replace it with a reference to FINRA Rule 2341 (“Investment Company Securities”). FINRA Rule 2341 was adopted without any substantive changes to the NASD rule text.<sup>4</sup>

<sup>3</sup> See *Information Notice*, March 28, 2008 (Rulebook Consolidation Process) at <https://www.finra.org/sites/default/files/NoticeDocument/p038121.pdf>.

<sup>4</sup> See Securities Exchange Act Release No. 78130 (June 22, 2016), 81 FR 42016 (June 28, 2016) (SR–FINRA–2016–019).

Moreover, to be consistent with cross-reference updates in current FINRA Rule 2341, the Exchange will update the cross-reference to NASD Rule 2820 with FINRA Rule 2320. Additionally, the Exchange will update Rule 2830(b)(3) by replacing the NASD Rule 2420 reference with FINRA Rule 2040 and update the Nasdaq rule text to track the text of FINRA Rule 2040(a). Finally, the Exchange will replace the NASD Rule 2230 reference with FINRA Rule 2232.

Nasdaq Rule 3360. Short-Interest Reporting

In 2008, FINRA Rule 4560 was adopted to include the short interest reporting requirements of the substantially similar NASD Rule 3360 and Incorporated NYSE Rules 421(1) and 421.10 with non-substantive changes to the NASD rule text.<sup>5</sup> In 2010, FINRA made further amendments to the rule that were intended to eliminate the definition of “OTC Equity Security” in FINRA Rule 4560 (Short-Interest Reporting) and to clarify that the rule applied to all equity securities except restricted equity securities.<sup>6</sup>

The Exchange proposes to update Nasdaq Rule 3360(a) by replacing the NASD Rule 3360 reference with FINRA Rule 4560 (“Short-Interest Reporting”). The Exchange will not update Rule 3360 to include the reference to “Restricted Equity Securities” found in FINRA Rule 4560 since, following the termination of the PORTAL Market,<sup>7</sup> such securities are no longer listed or traded in the Exchange; relatedly, the Exchange will omit the reference to FINRA Rule 6420 since a cross-reference to the definition of Restricted Equity Securities is not required. Further, the Exchange will add the word “all” before the word “securities” but, unlike the FINRA rule, will not insert the word “equities” because the Exchange also lists options securities. Finally, the Exchange will remove a sentence concerning the reporting obligations to reflect changes also made in the FINRA rule.<sup>8</sup>

The Exchange also proposes to amend current Rule 3360(b) and (c) and adopt the text of current FINRA Rule 4560(b) and (c).

<sup>5</sup> See Securities Exchange Act Release No. 58461 (September 4, 2008), 73 FR 52710 (September 10, 2008) (SR–FINRA–2008–033).

<sup>6</sup> See Securities Exchange Act Release No. 61979 (April 23, 2010), 75 FR 23316 (May 3, 2010) (SR–FINRA–2010–003).

<sup>7</sup> See Securities Exchange Act Release No. 58638 (September 24, 2008), 73 FR 57188 (October 1, 2008) (SR–NASDAQ–2008–076).

<sup>8</sup> See Securities Exchange Act Release No. 66872 (April 27, 2012), 77 FR 26340 (May 3, 2012) (SR–FINRA–2012–001).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

### Nasdaq Rule 4200. Definitions

The Exchange proposes to update the NASD Rule 2710(b)(11) reference in this rule and replace it with a reference to FINRA Rule 5190 (“Notification Requirements for Offering Participants”). In 2008, NASD Rules 2710(b)(10) and (11) were relocated into FINRA Rule 5190 to consolidate and streamline all Regulation M-related notice requirements.<sup>9</sup>

The Exchange also proposes to replace in Rule 4200(a)(2) and (b) the cross-reference to Nasdaq Rule 4623 (“Alternative Trading Systems”) with Nasdaq Rule 4624. Consistent with FINRA Rule 5190(e), a Nasdaq member’s notification obligation, as described in Nasdaq Rule 4200 is detailed under Nasdaq Rule 4624 (“Penalty Bids and Syndicate Covering Transactions”).

### Nasdaq Rule 6110. Definitions

The Exchange proposes to update the NASD Rule 6120 reference in Nasdaq Rule 6110(g) and replace it with a reference to FINRA Rule 7220A (“Trade Reporting Participation Requirements”). In 2008, the NASD Rule 6100 Series was relocated and amended to form the FINRA Rule 7200A Series, applicable to the FINRA/Nasdaq Trade Reporting Facility, and the Rule 7300 Series, applicable to FINRA’s Over the Counter Reporting Facility.<sup>10</sup> The Exchange proposes also to conform its Rule 6110(g) by removing the reference to UTP Exchanges which are not listed under FINRA Rule 7220A.

### Nasdaq General 2, Section 15. Business Continuity Plans

The Exchange proposes to update the NASD Rule 3510 reference in this rule and replace it with a reference to FINRA Rule 4370 (“Business Continuity Plans and Emergency Contact Information”). FINRA Rule 4370 was adopted to include NASD Rules 3510 (“Business Continuity Plans”) and NASD Rule 3520 (“Emergency Contact Information”) without substantive changes to the rule text.<sup>11</sup>

Additionally, the Exchange proposes to include a new paragraph (b) that will indicate that references in FINRA Rule 4370 to Rule 4517 shall be construed as references to Nasdaq General 2, Section 16.

### Nasdaq General 9, Section 1(c). Front Running Policy

The Exchange proposes to update the NASD IM–2110–3 reference in the Nasdaq rule and replace it with a reference to current FINRA Rule 5270. The NASD interpretive material was relocated to FINRA Rule 5270 to broaden its scope and provide clarity into an activity that is inconsistent with just and equitable principles of trade.<sup>12</sup>

### Nasdaq General 9, Section 1(f). Confirmation of Callable Common Stock

The Exchange proposes to delete the duplicative text at the beginning of the section that currently reads “Exchange members and persons”. Next, the Exchange proposes to update the NASD IM–2110–6 reference in the Nasdaq rule and replace it with a reference to current FINRA Rule 2232. In 2009, the requirements of the NASD interpretive material were transferred to their current location in the FINRA rulebook.<sup>13</sup> FINRA Rule 2232 expanded the coverage of the relocated interpretive material’s requirements, clarifying that the requirement to disclose that the security is callable (and that further information is available from the member) applies to any equity security.

### Nasdaq General 9, Section 3. Communications With the Public and Section 4. Institutional Sales Material and Correspondence

In 2012, FINRA adopted Rule 2210 (“Communications with the Public”) to encompass, among other provisions, NASD Rules 2210 and 2211, and NASD Interpretive Materials 2210–1 and 2210–4.<sup>14</sup> The Exchange proposes to consolidate the text of General 9, Sections 3 and 4 into current Section 3 and reserve current Section 4, as explained below.

Current Nasdaq General 9, Section 3(a) incorporates by reference FINRA Rule 2210 (“Communications with the Public”). Moreover, Section 3(a) provides that references to FINRA Rule 2211 shall be understood as references to Nasdaq Rule 2211. The Exchange proposes to delete from Section 3(a) the reference concerning Rule 2211.

The retired NASD Rule 2210 incorporated the definitions of “Correspondence” and “Institutional

Sales Material” from NASD Rule 2211. When FINRA adopted Rule 2210, both definitions were merged into the current rule and the references to Rule 2211 were removed. It follows, that the Exchange removes the reference Rule 2211 as such is no longer necessary.

The Exchange also proposes to delete Section 3(b) and re-letter current Section 3(c) as (b). Current Section 3(b) incorporates by reference NASD IM–2210–1 which, as explained, was merged into FINRA Rule 2210. Updating current Section 3(b) to incorporate FINRA Rule 2210 will make the section redundant. Therefore, Section 3(b) will be deleted as it is no longer necessary.

The Exchange proposes to delete General 9, Section 4(a) because Section 3(a) already incorporates by reference FINRA Rule 2210. Furthermore, the Exchange believes that the exception in current Section 4(a) concerning NASD Rule 2211(d)(3) does not need to be added to Nasdaq General 9, Section 3(a), because that provision is no longer referenced in FINRA Rule 2210.

The Exchange also proposes to adopt current Section 4(b)(1) as Section 3(c), with a minor change. New Section 3(c) will provide that references to FINRA “membership” will be construed as references to membership with the Exchange.

Finally, the Exchange proposes to adopt part of the text in current Section 4(b)(2) as Section 3(d). New Section 3(d) will omit references to FINRA Rule 2210 (as such incorporation is already provided in Section 3(a)) and will state that references to FINRA Rules 4512<sup>15</sup> and 3110<sup>16</sup> shall be read, respectively, as references to Nasdaq General 9, Section 45 and Section 20.

### Nasdaq General 9, Section 9. Fairness Opinions

The Exchange proposes to update the NASD Rule 2290 reference in this rule and replace it with a reference to FINRA Rule 5150 (“Fairness Opinions”). The aforementioned NASD rule was relocated to FINRA Rule 5150 with no changes to the rule text.<sup>17</sup>

### Nasdaq General 9, Section 11. Best Execution and Interpositioning

The Exchange proposes to update the NASD Rule 2440 and IM–2440 references in this rule and replace them

<sup>9</sup> See Securities Exchange Act Release No. 58514 (September 11, 2008), 73 FR 54190 (September 18, 2008) (SR–FINRA–2008–039).

<sup>10</sup> See Securities Exchange Act Release No. 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008) (SR–FINRA–2008–021).

<sup>11</sup> See Securities Exchange Act Release No. 60534 (August 19, 2009), 74 FR 44410 (August 28, 2009) (SR–FINRA–2009–036).

<sup>12</sup> Securities Exchange Act Release No. 67774 (September 4, 2012), 77 FR 55519 (September 10, 2012) (SR–FINRA–2012–025).

<sup>13</sup> Securities Exchange Act Release No. 63150 (October 21, 2010), 75 FR 66173 (October 27, 2010) (SR–FINRA–2009–058).

<sup>14</sup> See Securities Exchange Act Release No. 66681 (March 29, 2012), 77 FR 20452 (April 4, 2012) (SR–FINRA–2011–035).

<sup>15</sup> See Securities Exchange Act Release No. 63784 (January 27, 2011), 76 FR 5850 (February 2, 2011) (SR–FINRA–2010–052).

<sup>16</sup> See Securities Exchange Act Release No. 71179 (December 23, 2013), 79 FR 79542 (December 30, 2013) (SR–FINRA–2013–025).

<sup>17</sup> See Securities Exchange Act Release No. 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008) (SR–FINRA–2008–028).

with a reference to FINRA Rule 2121 and its supplementary material (“Fair Prices and Commissions”). FINRA Rule 2121 was adopted without any substantive changes to the NASD rule text.<sup>18</sup>

#### Nasdaq General 9, Section 12. Customer Account Statements

The Exchange proposes to update the NASD Rule 2340 reference in this rule and replace it with a reference to FINRA Rule 2231 (“Customer Account Statements”). FINRA Rule 2231 was adopted without any substantive changes to the NASD rule text.<sup>19</sup>

Moreover, the Exchange will update the references to NASD Rules 2810 and 3110 as shown in Section 12(b). Specifically, the Exchange will replace the reference to NASD Rule 2810 with FINRA Rule 2310 (“Direct Participation Programs”) <sup>20</sup> and NASD Rule 3110 with FINRA Rule 4512 (“Customer Account Information”). The Exchange also proposes to add back to Section 12(b) Nasdaq Rule 2310A <sup>21</sup> that is equivalent to current FINRA Rule 2310. This cross-reference was inadvertently removed from the rulebook by a recent relocation filing.<sup>22</sup> Finally, the Exchange proposes to replace the reference of General 9, Section 30 with Section 45, because it corresponds to FINRA Rule 4512.

Additionally, the Exchange proposes to amend Section 12(c) by replacing the reference to General 5, Section 2 with a reference to the Nasdaq Rule 9600 Series. The Exchange needs to make this correction because there is no Section 2 under the General 5 title.

#### Nasdaq General 9, Section 13. Margin Disclosure Statement

The Exchange proposes to update the NASD Rule 2341 reference in this rule and replace it with a reference to FINRA Rule 2264 (“Margin Disclosure Statement”). FINRA Rule 2264 was adopted with only minor changes to the text of NASD Rule 2341, and those

changes were intended to clarify the submission of disclosure statements.<sup>23</sup>

The Exchange also proposes to amend Section 13(b) by updating the reference to NASD Rule 3110 with FINRA Rule 4512 <sup>24</sup> and the reference to General 9, Section 30 with Section 45, because it corresponds to FINRA Rule 4512.

#### Nasdaq General 9, Section 16. Charges for Services Performed

The Exchange proposes to update the NASD Rule 2430 reference in this rule and replace it with a reference to FINRA Rule 2122 (“Charges for Services Performed”). FINRA Rule 2122 was adopted without any substantive changes to the NASD rule text.<sup>25</sup>

#### Nasdaq General 9, Section 17. Net Transactions With Customers

The Exchange proposes to update the NASD Rule 2441 reference in this rule and replace it with a reference to FINRA Rule 2124 (“Net Transactions with Customers”). FINRA Rule 2124 was adopted without any substantive changes to the NASD rule text.<sup>26</sup> The Exchange also proposes to adopt a cross-reference to FINRA Rule 4511, which has a corresponding Exchange rule under General 9, Section 30. Moreover, the Exchange proposes to add a cross-reference to FINRA Rule 4512 and a reference to the corresponding Exchange rule under General 9, Section 45.

#### Nasdaq General 9, Section 19. Discretionary Accounts

The Exchange proposes to update the NASD Rule 2510 reference in this rule and replace it with a reference to FINRA Rule 3260 (“Discretionary Accounts”). FINRA Rule 3260 was adopted without any substantive changes to the NASD rule text.<sup>27</sup>

Moreover, the Exchange will update the cross-references to NASD rules with their respective equivalent FINRA rules. Specifically, the Exchange will replace the NASD Rule 3010 reference with FINRA Rule 3110. Additionally, the Exchange will replace the NASD Rule 3110 reference with FINRA Rule 4512.<sup>28</sup> Finally, the Exchange proposes to replace the reference to General 9, Section 30 with Section 45, because it corresponds to FINRA Rule 4512.

#### Nasdaq General 9, Section 21. Supervisory Control System and Section 22. Annual Certification of Compliance and Supervisory Processes

The Exchange proposes to consolidate Sections 21 and 22 into one rule, Section 21 (“Supervisory Control System, Annual Certification of Compliance and Supervisory Processes”), as explained below. First, the Exchange proposes to update the NASD Rule 3012 reference in this rule and replace it with a reference to FINRA Rule 3120 (“Supervisory Control System”). FINRA Rule 3120 retained the former NASD rule’s testing and verification requirements for the member’s supervisory procedures and provided requirements for members reporting \$200 million or more in gross revenue.<sup>29</sup> The Exchange will also update the reference to Nasdaq Rule 3012, which was relocated to the Nasdaq shell as Nasdaq General 9, Section 21.<sup>30</sup>

Second, the Exchange will update the NASD Rule 3013 reference in Section 21(c) (“Annual Certification of Compliance and Supervisory Processes”) and replace it with a reference to FINRA Rule 3130 (“Annual Certification of Compliance and Supervisory Processes”). FINRA Rule 3130 was adopted to streamline and combine the requirements of NASD Rule 3013 and IM-3013.<sup>31</sup>

Third, the Exchange will re-letter the next paragraph, currently lettered as “(b)” (“For purposes of this Rule . . .”), as “(d)”. In re-lettered Section (d)(2), as previously explained, the Exchange will update the reference to NASD Rule 3013 with FINRA Rule 3130, which shall be read as a reference to Exchange’s corresponding rule under General 9, Section 21. Similarly, the Exchange proposes to update the cross-reference to NASD Rule 2110 with FINRA Rule 2010. In 2008, NASD Rule 2110 was renumbered as FINRA Rule 2010 with no changes to the rule text.<sup>32</sup> Additionally, the Exchange will change the General 9, Section 3 reference with Section 1(a), because it corresponds to FINRA Rule 2010.

Finally, the Exchange will delete and reserve Current General 9, Section 22, since its sub-sections are duplicative of sub-sections in Section 21.

<sup>18</sup> See Securities Exchange Act Release No. 72208 (May 21, 2014), 79 FR 30675 (May 28, 2014) (SR-FINRA-2014-023).

<sup>19</sup> See Securities Exchange Act Release No. 85589 (April 10, 2019), 84 FR 15646 (April 16, 2019) (SR-FINRA-2019-009).

<sup>20</sup> See Securities Exchange Act Release No. 59987 (May 27, 2009), 74 FR 26902 (June 4, 2009) (SR-FINRA-2009-016).

<sup>21</sup> See Securities Exchange Act Release Nos. 61321 (January 8, 2010), 75 FR 3776 (January 22, 2010) (SR-NASDAQ-2010-002) and 61681 (March 10, 2010), 75 FR 12591 (March 16, 2010) (SR-NASDAQ-2010-033).

<sup>22</sup> See Securities Exchange Act Release No. 87778 (December 17, 2019), 84 FR 70590 (December 23, 2019) (SR-NASDAQ-2019-098).

<sup>23</sup> See Securities Exchange Act Release No. 60697 (September 21, 2009), 74 FR 49051 (September 25, 2009) (SR-FINRA-2009-052).

<sup>24</sup> See *supra* note 15.

<sup>25</sup> See Securities Exchange Act Release No. 73714 (December 2, 2014), 79 FR 72743 (December 8, 2014) (SR-FINRA-2014-049).

<sup>26</sup> See *supra* note 11.

<sup>27</sup> See *supra* note 19.

<sup>28</sup> See *supra* note 15.

<sup>29</sup> See *supra* note 16.

<sup>30</sup> See *supra* note 22.

<sup>31</sup> See Securities Exchange Act Release No. 58661 (September 26, 2008), 73 FR 57395 (October 2, 2008) (SR-FINRA-2008-030).

<sup>32</sup> See *supra* note 17.



Nasdaq General 9, Section 23. Outside Business Activities of an Associated Person

The Exchange proposes to update the NASD Rule 3030 reference in this rule and replace it with a reference to FINRA Rule 3270 (“Outside Business Activities of Registered Persons”). FINRA Rule 3270 was adopted to harmonize and simplify the events that constitute an outside business activity, expanding upon the obligations imposed in NASD Rule 3030, by prohibiting any registered person from doing business with another person as a result of any business activity outside the scope of the relationship with his or her member firm, unless prior written notice was provided to the member.<sup>33</sup>

Moreover, the Exchange will update the cross-reference to NASD Rule 3040 with FINRA Rule 3280.<sup>34</sup> The Exchange proposes also to update the reference to General 9, Section 23 with Section 24 (“Private Securities Transactions of an Associated Person”), because it corresponds to FINRA Rule 3280.

Nasdaq General 9, Section 24. Private Securities Transactions of an Associated Person

The Exchange proposes to update the NASD Rule 3040 reference in this rule and replace it with a reference to FINRA Rule 3280 (“Private Securities Transactions of an Associated Person”). FINRA Rule 3280 was adopted without any substantive changes to the NASD rule text.<sup>35</sup>

The Exchange will also update the cross-reference to NASD Rule 3050 with FINRA Rule 3210.<sup>36</sup> The Exchange proposes also to update the reference to General 9, Section 24 with Section 25 (“Transactions for or by Associated Persons”), because it incorporates FINRA Rule 3210.

Furthermore, the Exchange proposes to correct a typo in the quoted text of Nasdaq General 9, Section 24(b)(2). Specifically, the Exchange will substitute the word “immediately” with “immediate.”

Finally, the Exchange will replace a reference to NASD Rule 2790 with

FINRA Rule 5130.<sup>37</sup> The definition of “immediate family member,” cross-referenced in General 9, Section 24(b)(2), is currently located under FINRA Rule 5130(i)(5).

Nasdaq General 9, Section 25. Transactions for or by Associated Persons

The Exchange proposes to update the NASD Rule 3050 reference in this rule and replace it with a reference to FINRA Rule 3210 (“Accounts At Other Broker-Dealers and Financial Institutions”). FINRA Rule 3210 was adopted to consolidate NASD Rule 3050, Incorporated NYSE Rules 407 and 407A, and Incorporated NYSE Rule Interpretations 407/01 and 407/02. The rule was designed to streamline the provisions of the NASD and incorporated NYSE rules and to help facilitate effective oversight of the specified trading activities of associated persons of member firms.<sup>38</sup>

Nasdaq General 9, Section 31. Use of Information Obtained in Fiduciary Capacity

The Exchange proposes to update the NASD Rule 3120 reference in this rule and replace it with a reference to FINRA Rule 2060 (“Use of Information Obtained in Fiduciary Capacity”). FINRA Rule 2060 was adopted without any changes to the NASD rule text.<sup>39</sup>

Nasdaq General 9, Section 33. Reporting Requirements for Clearing Firms

The Exchange proposes to update the NASD Rule 3150 reference in this rule and replace it with a reference to FINRA Rule 4540 (“Reporting Requirements for Clearing Firms”). FINRA Rule 4540 was adopted without any substantive changes to the NASD rule text.<sup>40</sup>

Furthermore, the Exchange proposes to amend Section 33(c)(1) by replacing the reference to General 5, Section 2 with a reference to the Nasdaq Rule 9600 Series. The Exchange needs to make this correction because there is no Section 2 under the General 5 title.

Finally, the Exchange proposes to update the reference to Nasdaq Rule 3150, which was relocated to the Nasdaq shell as Nasdaq General 9, Section 33.<sup>41</sup>

Nasdaq General 9, Section 34. Extensions of Time Under Regulation T and SEC Rule 15c3–3

The Exchange proposes to update the NASD Rule 3160 reference in this rule and replace it with a reference to FINRA Rule 4230 (“Required Submissions for Requests for Extensions of Time Under Regulation T and SEA Rule 15c3–3”). FINRA Rule 4230 was adopted largely based on the text of NASD Rule 3160, with a clarification to the original rule text regarding the reporting obligations of clearing members.<sup>42</sup>

The Exchange will also update the reference to Nasdaq Rule 3160, which was relocated to the Nasdaq shell as Nasdaq General 9, Section 34.<sup>43</sup>

Nasdaq General 9, Section 38. Margin Requirements

The Exchange proposes to update the NASD Rule 2520 reference in this rule and replace it with a reference to FINRA Rule 4210 (“Margin Requirements”). In 2010, NASD Rules 2520, 2521, 2522, and IM–2522 were combined and consolidated into a single rule intended to improve the organization of margin rules and improve their readability.<sup>44</sup>

The Exchange proposes also to amend Section 38(d) by replacing the reference to General 5, Section 2 with a reference to the Nasdaq Rule 9600 Series. The Exchange needs to make this correction because there is no Section 2 under the General 5 title.

Nasdaq General 9, Section 45. Customer Account Information

The Exchange proposes to update the NASD Rule 2510 reference in this rule and replace it with FINRA Rule 3260 (“Discretionary Accounts”). FINRA Rule 3260 was adopted without any changes to the original NASD rule text.<sup>45</sup>

The Exchange also proposes to delete from the rule the text that reads “(or any successor FINRA rule)” since the NASD rule is now relocated to FINRA Rule 3260. Finally, the Exchange will replace the General 9, Section 18 reference with Section 19 (“Discretionary Accounts”), because it corresponds to FINRA Rule 3260.

Moreover, the Exchange will update General 9, Section 45(b)(2) to provide that General 9, Section 29 is equivalent to FINRA Rule 2070. Finally, the Exchange proposes a minor correction in the rule by deleting the text that reads “and 28” that was inadvertently

<sup>33</sup> See Securities Exchange Act Release No. 62762 (August 23, 2010), 75 FR 53362 (August 31, 2010) (SR–FINRA–2009–042).

<sup>34</sup> See Securities Exchange Act Release No. 75757 (August 25, 2015), 80 FR 52530 (August 31, 2015) (SR–FINRA–2015–030).

<sup>35</sup> *Id.* See also Securities Exchange Act Release No. 80105 (February 24, 2017), 82 FR 12387 (March 2, 2017) (SR–FINRA–2017–004).

<sup>36</sup> See Securities Exchange Act Release No. 77550 (April 7, 2016), 81 FR 21924 (April 13, 2016) (SR–FINRA–2015–029).

<sup>37</sup> See Securities Exchange Act Release No. 58421 (August 25, 2008), 73 FR 51032 (August 29, 2008) (SR–FINRA–2008–025).

<sup>38</sup> See *supra* note 36.

<sup>39</sup> See Securities Exchange Act Release No. 61071 (November 30, 2009), 74 FR 64109 (December 7, 2009) (SR–FINRA–2009–067).

<sup>40</sup> See *supra* note 19.

<sup>41</sup> See *supra* note 22.

<sup>42</sup> See Securities Exchange Act Release No. 62482 (July 12, 2010), 75 FR 41562 (July 16, 2010) (SR–FINRA–2010–024).

<sup>43</sup> See *supra* note 22.

<sup>44</sup> See *supra* note 42.

<sup>45</sup> See *supra* note 19.



introduced during a recent rule relocation.<sup>46</sup>

Nasdaq General 9, Section 47. Approval and Documentation of Changes in Account Name or Designation

The Exchange proposes to update the NASD Rule 2510 reference in this rule and replace it with FINRA Rule 3260 (“Discretionary Accounts”). FINRA Rule 3260 was adopted without any changes to the original NASD rule text.<sup>47</sup> The Exchange also proposes to delete from the rule the text that reads “(or any successor FINRA rule)” since the NASD rule is now relocated to FINRA Rule 3260. Finally, the Exchange will replace the Exchange General 9, Section 18 reference with Section 19, because it corresponds to FINRA Rule 3260.

Nasdaq General 9, Section 49. Payments Involving Publications That Influence the Market Price of a Security

The Exchange proposes to update the NASD Rule 2711 reference in this rule and replace it with a reference to FINRA Rule 2241 (“Research Analysts and Research Reports”). Specifically, the research report’s definition referenced in General 9, Section 49(b)(3) was relocated to current FINRA Rule 2241(a)(11). That definition was amended to exclude communications concerning open-end registered investment companies not listed or traded on an exchange.<sup>48</sup>

The Exchange also proposes to delete the paragraph at the end of the rule concerning the consolidation of FINRA rules, since FINRA has completed the relocation of its rules.

Nasdaq Equity 7, Section 111. Nasdaq SIP: Nasdaq Level 1 Service

The Exchange proposes to update the cross-reference to the NASD 6600 Rule Series with a reference to FINRA 6400 Rules Series (“Quoting and Trading in OTC Equity Securities”).<sup>49</sup>

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>50</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>51</sup> in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by bringing greater transparency to its rules by updating the

references to the FINRA rules previously described. The Exchange’s proposal is consistent with the Act and will protect investors and the public interest by harmonizing its rules and clarifying outdated references so that Exchange members and the general public can readily locate FINRA rules that are incorporated by reference into the Rulebook.

The reference and cross-reference updates, re-lettering, deleting unnecessary or duplicative text, consolidating certain Nasdaq rules, and other minor technical changes will bring greater transparency to Nasdaq’s Rule structure. The Exchange believes its proposal will benefit investors and the general public by increasing the transparency of its Rulebook.

### B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed amendments do not impose an undue burden on competition because the amendments to update the references and cross-references in its Rulebook are intended to bring greater clarity to the Exchange’s rules. The reference and cross-reference updates, re-lettering, deleting unnecessary or duplicative text, consolidating certain Nasdaq rules, and other minor technical changes will bring greater transparency to Nasdaq’s Rulebook.

### C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>52</sup> and Rule 19b-4(f)(6) thereunder.<sup>53</sup>

<sup>52</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>53</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change,

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>54</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>55</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. Waiver of the operative delay would allow the Exchange to immediately update its outdated rules and otherwise make its rules more consistent with corresponding FINRA rules that it incorporates by reference. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.<sup>56</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission’s internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2020-045 on the subject line.

at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>54</sup> 17 CFR 240.19b-4(f)(6).

<sup>55</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>56</sup> For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>46</sup> See *supra* note 22.

<sup>47</sup> See *supra* note 19.

<sup>48</sup> See Securities Exchange Act Release No. 75471 (July 16, 2015), 80 FR 43482 (July 22, 2015) (SR-FINRA-2014-047).

<sup>49</sup> See *supra* note 10.

<sup>50</sup> 15 U.S.C. 78f(b).

<sup>51</sup> 15 U.S.C. 78f(b)(5).

### Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2020–045. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2020–045 and should be submitted on or before September 16, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>57</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–18680 Filed 8–25–20; 8:45 am]

**BILLING CODE 8011–01–P**

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89621; File No. SR–ICEEU–2020–008]

#### Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the ICE Clear Europe Futures and Options Stress Testing Policy and the Adoption of the Futures and Options Stress Testing Methodology Document

August 20, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on August 6, 2020, ICE Clear Europe Limited (“ICE Clear Europe” or the “Clearing House”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule changes described in Items I, II and III below, which Items have been prepared by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b–4(f)(4)(ii) thereunder,<sup>4</sup> so that the proposal was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed amendments is for ICE Clear Europe to modify its Futures and Options Stress Testing Policy (the “F&O Stress Testing Policy” or “Policy”) to update its F&O market stress scenarios to ensure all relevant products are covered and to make certain other updates and clarifications to be consistent with other ICE Clear Europe policies. In furtherance of these changes, ICE Clear Europe also proposes to adopt a Futures and Options Stress Testing Methodology Document (“F&O Stress Testing Methodology Document”) which describes ICE Clear Europe's methodology for systematically applying the F&O Stress Testing Policy in situations where the required historical price data is not available. The revisions to the F&O Stress Testing Policy and the adoption of the F&O Stress Testing Methodology Document do not involve any changes to the ICE

Clear Europe Clearing Rules or Procedures.<sup>5</sup>

#### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

##### (A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### (a) Purpose

ICE Clear Europe is proposing to amend its F&O Stress Testing Policy as follows: (i) With respect to historical stress-testing scenarios, to update the methodology to include additional product groups, benchmark contracts and default shock values, in order to ensure that every cleared instrument is covered in the historical scenarios; (ii) with respect to theoretical stress-testing scenarios, to improve scenario implementations to ensure appropriate coverage of all relevant instruments; (iii) to update provisions relating to policy reviews and breach management; and (iv) to make various drafting clarifications and improvements. ICE Clear Europe is also proposing to adopt an F&O Stress Testing Methodology Document which would provide further detail with respect to the methodology applied to the stress-testing scenarios, particularly the historical stress-testing scenarios.

###### I. F&O Stress Testing Policy

###### General Drafting Clarifications and Improvements

By way of general drafting clarification and improvements, the amendments to the F&O Stress Testing Policy would remove the background description of the board risk appetite and the limit appetite as these are addressed in other ICE Clear Europe documentation. Certain terminology would be updated throughout the F&O Stress Testing Policy: Original Margin would be updated to Initial Margin. Reference to the F&O Risk Committee would be updated to the F&O Product Risk Committee. Product Groups would

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b–4(f)(4)(ii).

<sup>5</sup> Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules.

<sup>57</sup> 17 CFR 200.30–3(a)(12).

be referred to as Stress Groups. References to certain specific EMIR standards and provisions would be removed and the appendices relating to the existing stress testing methodology would be removed (as relevant detail would be instead contained in the F&O Stress Testing Methodology Document).

#### Stress Testing and Guaranty Fund

The overall description of the method of testing the size of the Guaranty Fund would be simplified and clarified to state that stress tests are designed to cover the worst price moves over the last 30 years (historical scenarios) and extreme, but as yet unobserved price moves based on potential future events or market moves to a confidence level of 99.9% (theoretical scenarios). A clarification would be added that historical scenarios that are more than 30 years old can only be decommissioned following the standard governance provisions for removal of any scenario. The description of the utilization of the Guaranty Fund would be removed as unnecessary for purposes of this policy. In addition, a diagram illustrating the existing stress testing methodology would be deleted as unnecessary.

The calculation principles relating to stress testing would be amended as described below. Amendments would clarify that historical stress shocks would be calibrated using the official settlement prices history from ICE as well as external market sources. If such market data does not exist, then ICE Clear Europe would calculate shocks using the waterfall proxy methodology which is described in the F&O Stress Testing Methodology Document. The amendments would delete the statement that option pricing model calculations would assume theta decay over the holding period (as unnecessarily specific for purposes of the Policy).

The amendments would further clarify that stress scenarios would use risk factor moves over stress periods of risk ("SPOR") that take into account the time horizon for the relevant liquidation period (rather than a one or two day period under the current policy). The F&O Stress Testing Policy would note that where risk factor moves across periods shorter than the liquidation period time horizon are more extreme due to market reversion, it may be more conservative and appropriate to apply a shorter SPOR. With respect to historical data, the amendments would provide that where a risk factor does not have an internal or external data, ICE Clear Europe would rely on proxy mappings (which may vary depending on the scenario) to calibrate the stress shocks

for instruments where historical data is not available or reliable. Such proxy mappings are proposed by the Clearing House's Credit Risk Department and require approval from the Clearing House's Model Oversight Committee. The proxy mappings would be addressed in further detail in the F&O Stress Testing Methodology Document. The amendments would also supplement the table of risk factors to address certain limitations of expiry-specific scenarios.

With respect to Stress Groups (formerly referred to as Product Groups), the criteria for choosing such groups and their constituents would be expanded to include the fundamental relationships between products.

#### Stress Scenarios

Pursuant to the proposed amendments, the definition of the two broad categories of historical scenarios would be clarified: (i) Historical Type A, which would replicate as accurately as possible the historical event; and (ii) Historical Type B which would reflect the intention of the historical stress events, but adjust the market movements either to make them plausible under current market conditions, better capture the stress period moves across different asset classes, or more appropriately reflect the existing risk factor exposures of the Clearing House. The description of historical stress scenarios would be amended to move certain additional scenarios regarding the energy segment and certain assumptions used to examine potential losses from significant changes in correlation relationships from the Policy to the F&O Stress Testing Methodology Document. The amended Policy would also remove certain general discussions of the use of proxies for particular markets, such as single stock equity futures products; proxy methodology would instead be discussed in the F&O Stress Testing Methodology Document.

With respect to theoretical scenarios, ICE Clear Europe proposes to clarify that scenario implementations include a variety of approaches to create extreme but plausible scenarios that are not contained within the set of historical scenarios and which may utilize expert judgement in their construction. Theoretical scenarios may also include narrative-driven macro or idiosyncratic scenarios driven by broad macroeconomic or specific technical events. Regulatory-driven scenarios from prior supervisory stress testing exercises can also be included. The revised policy would remove a further definition of some theoretical scenarios

as "hypothetical" (such that all scenarios would be categorized as either historical or theoretical). The amendments would provide that theoretical scenarios can be targeted and only shock certain instruments relevant to the design of the scenario (rather than all contracts).

The provisions related to reverse stress testing would be revised to remove statements that reverse stress scenarios are generated on a daily basis and that the Clearing House runs daily reverse stress test reports. Under the revised Policy, reverse stress testing results would be presented to the F&O Product Risk Committee every other month, rather than monthly. ICE Clear Europe nonetheless believes the revised approach provides for sufficient reverse stress testing and internal review of the results of such testing, consistent with relevant regulatory requirements.

The amendments would add a new section stating that the uncollateralized stress-testing losses would be compared to the segment of the Guaranty Fund that is relevant to that particular stress scenario. A scenario can be defined against the whole F&O Guaranty Fund or a particular segment (*e.g.*, energy or financials and softs).

#### Governance

ICE Clear Europe is also proposing to amend the F&O Stress Testing Policy to reflect changes to the Clearing House's document governance and exception handling, specifically to provide that (i) the document owner is responsible for ensuring that documents remain up-to-date and are reviewed in accordance with the Clearing House's governance processes, (ii) the document owner (as maintained in other relevant ICE Clear Europe internal policies) will report material breaches or unapproved deviations from the F&O Stress Testing Policy to their Head of Department, the Chief Risk Officer and the Head of Compliance (or their delegates) who will determine if further escalation will be made, and (iii) exceptions to the F&O Stress Testing Policy would be approved in accordance with the Clearing House's governance process for the approval of changes to such document.

#### II. F&O Stress Testing Methodology Document

ICE Clear Europe is proposing to adopt the F&O Stress Testing Methodology Document in order to comprehensively describe ICE Clear Europe's methodology for applying the F&O Stress Testing Policy in situations where the required historical price data is not available, typically because the

products that exist currently did not exist on those historical dates and therefore do not have historical price data for those dates. This approach will permit the extension of historical stress testing scenarios to all products.

The F&O Stress Testing Methodology Document would provide an overview of the stress testing approach, consistent with the F&O Stress Testing Policy, and include descriptions of the historical and theoretical stress scenarios. The methodology document would provide that ICE Clear Europe ensures product coverage for historical scenarios under the following approach:

(i) Where input returns for a futures product or implied volatility for an options product are not available in a scenario, by using the same stress shock as the proxy benchmark such scenario has been mapped to;

(ii) where the proxy benchmark does not have an input return in a scenario, by using the input return from that benchmark's proxy benchmark and such proxy process is repeated through the proxy waterfall until a benchmark with an input return is found;

(iii) if, at the end of the proxy waterfall, the benchmark has no input returns to use, by using a default value for the return which is derived from the long term expected value of historical returns of the benchmark product (this default value would then be used for all products that ultimately proxy to that benchmark in that scenario); and

(iv) where a default value is used in a historical scenario, running two variants of such scenario, one in which all the default prices are assumed to move up and the other all down, and in both, ICE Clear Europe would assume the default values of option volatility to move up given the lack of correlations between the stress groups. Default values would be recalibrated on at least an annual basis.

The F&O Stress Testing Methodology Document would describe in further detail the proxy waterfall methodology referenced in the F&O Stress Testing Policy. The methodology would describe the techniques used to create price and volatility shocks for historical scenarios in situations where there is no reliable data for that price or volatility shock in the relevant historical period. The waterfall would be based on a series of proxy relationships based on proximity to the relevant products. For any product that does not have historical data required to define its shock under the given base scenario, the relevant proxy would be used instead. Should that proxy not have data, the proxy's proxy would be used, in recursive fashion, until reaching the

terminal benchmarks. If there is no data available for the terminal benchmarks, a default value shock would be used. The methodology document would set out calculation of the risk returns used to stress test particular instruments, based on the SPOR, the relevant maturity and a series of price data. The document also sets out the default value calculation and explains the application of the shock for all products under each scenario using the proxy waterfall.

The F&O Stress Testing Methodology Document would identify certain assumptions and limitations that ICE Clear Europe has identified with respect to the proxy waterfall mechanism and default values.

The F&O Stress Methodology Document would also describe the governance and oversight responsibilities relating to the Policy and stress scenarios of each of the Board, the Client Risk Committee and the Model Oversight Committee. All changes to the Policy and the overall framework and methodology are subject to the approval of the Board, as are significant changes to the design, scope or definition of scenarios and the decommissioning of scenarios. The methodology document also addresses procedures for periodic "business as usual" recalibration of parameters for existing scenarios, and further provides that scenario recalibration will be done quarterly rather than semi-annually, but that default shocks which are predicated on average value over the long history would be subject to less frequent calibration

Finally, the appendices to the F&O Stress Testing Methodology Document would include: (i) A list of the sources of data that ICE Clear Europe inputs into the stress testing methodology; (ii) a list of the Stress Groups used in the Policy and the methodology document; (iii) a list of the terminal benchmark products applied at the end of the proxy waterfall; (iv) the detailed proxy waterfall algorithm; and (v) a worked example of the Clearing House's historical scenario coverage process.

ICE Clear Europe has evaluated the overall impact of the amended Policy and new framework documentation on its financial resources. ICE Clear Europe does not believe that the amendments would have a material impact on its total pre-funded resources or Guaranty Fund size. On average, ICE Clear Europe expects a non-material decrease in total pre-funded resources, largely due to the expanded product coverage covering certain risk reducing trades that may not have been covered previously. On average, ICE Clear Europe expects that a small number of F&O Clearing

Members may experience an increase in their Guaranty Fund requirements; although most would see a non-material decrease in requirements, on average.

#### (b) Statutory Basis

ICE Clear Europe believes that the proposed amendments to the F&O Stress Testing Policy and the adoption of the F&O Stress Testing Methodology Document are consistent with the requirements of Section 17A of the Act<sup>6</sup> and the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(F) of the Act<sup>7</sup> requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and the protection of investors and the public interest.

The proposed changes to the F&O Stress Testing Policy and the adoption of the F&O Stress Testing Methodology Document are designed to strengthen the ICE Clear Europe's stress testing methodology by updating the market stress scenarios to ensure that all of the relevant products are covered in each stress scenario. Specifically, the amendments would (i) update the stress shock calibration to include additional product groups for historical scenarios, (ii) improve scenario implementations for theoretical scenarios and (iii) systematically set out ICE Clear Europe's methodology for applying historical stress testing in situations where historical price data is not available. The clarification and other changes to the F&O Stress Testing Policy also enhance readability and ensure that the F&O Stress Testing Policy remains clear and up-to-date. ICE Clear Europe believes that the Policy as so amended and the adoption of the F&O Stress Testing Methodology Document will help ICE Clear Europe ensure that it maintains adequate financial resources to support its F&O clearing operations, enhance the stability of the Clearing House and thereby promote the prompt and accurate clearance and settlement of securities transactions and, derivative agreements, contracts, and transactions, the safeguarding of securities and funds in ICE Clear Europe's custody or control or for which ICE Clear Europe is responsible, and the public interest in the sound operation of clearing

<sup>6</sup> 15 U.S.C. 78q-1.

<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(F).

agencies. Accordingly, the amendments satisfy the requirements of Section 17A(b)(3)(F).<sup>8</sup>

In addition, ICE Clear Europe believes that the proposed revisions to the F&O Stress Testing Policy and the adoption of the F&O Stress Testing Methodology Document are consistent with the relevant requirements of Rule 17Ad-22.<sup>9</sup> Rule 17Ad-22(e)(4)(vi)<sup>10</sup> requires ICE Clear Europe to identify, measure, monitor and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by testing the sufficiency of its total financial resources available to meet the minimum financial resource requirements, including by conducting a comprehensive analysis of stress testing scenarios, models and underlying parameters and assumptions. The proposed changes to ICE Clear Europe's stress testing methodology amend the market stress scenarios to ensure that all of the relevant products are covered in each stress scenario, through including additional product groups for historical scenarios and improving scenario implementations for theoretical scenarios. Although adjustments are not expected to have an immediate material impact on required financial resources, ICE Clear Europe believes that the amendments will better calibrate its financial resource requirements to the particular risks of cleared positions and better adapt to evolving market conditions. The proposed revisions also improve the Clearing House's stress testing framework by providing a backup methodology for use of historical scenarios where market data is unavailable, increasing the coverage of its stress testing. Taken together the amendments further ensure that ICE Clearing House identifies, measures, monitors and manages its credit exposures, consistent with the requirements of Rule 17Ad-22(e)(4)(vi).<sup>11</sup>

Rule 17Ad-22(e)(3)(i)<sup>12</sup> requires clearing agencies to maintain a sound risk management framework that identifies, measures, monitors and manages the range of risks that it faces. The amendments to the F&O Stress Testing Policy and the adoption of the F&O Stress Testing Methodology Document are intended to better calibrate financial resources held by ICE Clear Europe to the risks faced by the Clearing House through improvements

to the stress testing methodology. In ICE Clear Europe's view, the amendments are therefore consistent with the requirements of Rule 17Ad-22(e)(3)(i).<sup>13</sup>

Rule 17Ad-22(e)(2)<sup>14</sup> requires clearing agencies to establish reasonably designed policies and procedures to provide for governance arrangements that are clear and transparent and specify clear and direct lines of responsibility. The proposed amendments to the F&O Stress Testing Policy more clearly define the roles and responsibilities of the document owner, the Head of Department, the senior members of the Risk Oversight Department and the senior members of the Compliance Department. The proposed F&O Stress Testing Methodology Document describes the governance and oversight role of each of the Board, the Client Risk Committee and the Model Oversight Committee with respect to the F&O Stress Testing Policy and stress scenarios thereto. ICE Clear Europe believes that the amendments to the F&O Stress Testing Policy and the adoption of the F&O Stress Testing Methodology Document are therefore consistent with the requirements of Rule 17Ad-22(e)(2).<sup>15</sup>

#### *(B) Clearing Agency's Statement on Burden on Competition*

ICE Clear Europe does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The amendments are being adopted to further strengthen ICE Clear Europe F&O stress testing methodology and would apply to all F&O Clearing Members. The proposed amendments are not expected to materially change F&O Guaranty Fund Contribution requirements for F&O Clearing Members (on average, it is expected that most Clearing Members would see a non-material decrease in requirements; while a few Clearing Members may see a non-material increase). Although the change could thus modestly increase the costs of clearing for certain Clearing Members, ICE Clear Europe believes any such additional cost is appropriately tailored to the risks relating to the products being cleared by those Clearing Members, as illustrated through the revised stress testing policy. ICE Clear Europe does not otherwise believe the amendments would affect the costs of clearing, the ability to market participants to access clearing, or the

market for clearing services generally. Therefore, ICE Clear Europe does not believe the proposed rule change imposes any burden on competition that is inappropriate in furtherance of the purposes of the Act.

#### *(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any written comments received with respect to the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>16</sup> and paragraph (f) of Rule 19b-4<sup>17</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ICEEU-2020-008 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-ICEEU-2020-008. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/>

<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>9</sup> 17 CFR 240.17Ad-22.

<sup>10</sup> 17 CFR 240.17Ad-22(e)(4)(vi).

<sup>11</sup> 17 CFR 240.17Ad-22(e)(4)(vi).

<sup>12</sup> 17 CFR 240.17 Ad-22(e)(3)(i).

<sup>13</sup> 17 CFR 240.17 Ad-22(e)(3)(i).

<sup>14</sup> 17 CFR 240.17 Ad-22(e)(2).

<sup>15</sup> 17 CFR 240.17 Ad-22(e)(2).

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>17</sup> 17 CFR 240.19b-4(f).

*rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at <https://www.theice.com/notices/Notices.shtml?regulatoryFilings>. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ICEEU-2020-008 and should be submitted on or before September 16, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

[FR Doc. 2020-18684 Filed 8-25-20; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89622; File No. SR-BOX-2020-34]

### Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule on the BOX Options Market LLC Facility To Amend the Liquidity Fees and Credits for SPY PIP and COPIP Transactions

August 20, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 12, 2020, BOX Exchange LLC ("Exchange") filed with the Securities

and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission ("Commission") a proposed rule change to amend the Fee Schedule on the BOX Options Market LLC ("BOX") facility. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at <http://boxexchange.com>.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend the Fee Schedule for trading on BOX to amend Section III., Liquidity Fees and Credits. Specifically, the Exchange proposes to amend the liquidity fees and credits for SPY PIP and COPIP transactions. Currently, a Public Customer SPY PIP or COPIP Order receives a \$0.45 "removal" credit while the corresponding Primary Improvement Order and any Improvement Order are charged a \$0.45 "add" fee. Further, under the current BOX Fee Schedule, when Non-Public Customer SPY PIP or COPIP orders do

not trade with its Primary Improvement Order, the Primary Improvement Order receives a \$0.45 "removal" credit and any corresponding Improvement Order responses are charged a \$0.45 "add" fee.

The Exchange now proposes to no longer assess liquidity fees and credits for SPY PIP and COPIP transactions as described above, and instead proposes to establish that SPY PIP and COPIP Order submitted to the PIP and COPIP mechanisms that do not trade with their Primary Improvement Order shall receive a "removal" credit of \$0.45, while Improvement Orders to the SPY PIP and COPIP Orders executed in these mechanisms shall be charged the "add" fee of \$0.45. The Exchange notes that a similar fee and credit structure is in place for liquidity fees and credits for Facilitation and Solicitation transactions on BOX.<sup>5</sup>

###### 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5) of the Act,<sup>6</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes the proposed change to establish new SPY PIP and COPIP liquidity fees and credits is reasonable, equitable, and not unfairly discriminatory because pricing by symbol is a common practice on many U.S. options exchanges as a means to incentivize order flow to be sent to an exchange for execution in the most actively traded options classes.<sup>7</sup>

The Exchange believes that the proposed changes to Section III of the BOX Fee Schedule are reasonable, equitable and not unfairly discriminatory. In particular, the Exchange believes the proposed change

<sup>5</sup> See BOX Fee Schedule Section III.B. Agency Orders submitted to the Facilitation and Solicitation mechanisms that do not trade with their contra order shall receive the "removal" credit. Responses to Facilitation and Solicitation Orders executed in these mechanisms shall be charged the "add" fee.

<sup>6</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>7</sup> The Exchange is proposing that SPY PIP and COPIP Order submitted to the PIP and COPIP mechanisms that do not trade with their Primary Improvement Order shall receive a "removal" credit of \$0.45, while responses to the SPY PIP and COPIP Orders executed in these mechanisms shall be charged the "add" fee of \$0.45. Further, the Exchange notes that SPY Primary Improvement Orders will no longer be assessed the \$0.45 "add" fee. The Exchange believes that the proposed changes will result in increased SPY order flow to BOX's PIP and COPIP auction mechanisms.

<sup>18</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

is reasonable as a similar “removal” credit and “add” fee structure is in place for liquidity fees and credits for Facilitation and Solicitation transactions.<sup>8</sup> The Exchange believes that mirroring the structure in place for liquidity fees and credits for Facilitation and Solicitation transactions is reasonable as the Exchange believes that the proposed change will incentivize Participants to submit SPY order flow through the PIP and COPIP auction mechanisms thereby benefitting all market participants through promoting market depth, facilitating tighter spreads and enhancing price discovery. Further, the Exchange believes that the proposed change is equitable and not unfairly discriminatory as the change applies to all Participants, regardless of account type.

Under this proposal, Public Customer SPY PIP and COPIP Primary Improvement Orders will no longer be assessed the \$0.45 “add” fee; however, responses to the SPY PIP and COPIP Orders will continue to be charged the \$0.45 “add” fee. The Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge higher exchange fees for responders in the PIP and COPIP mechanisms than for initiators of these orders and the contra orders. The Exchange believes it is reasonable when compared to a similar practice for Facilitation and Solicitation fees at a competing venue.<sup>9</sup> For example, at Nasdaq ISE the fee for both the initiating and contra order for PIM Orders is \$0.10 for Select Symbols for all account types except Priority Customers who are charged no fees. Responses to these orders are charged \$0.50 for Select Symbols regardless of account type. The Exchange notes that a differential of fees between initiators and responders currently exists in the Facilitation and Solicitation auction mechanisms on BOX. Further, the Exchange continues to believe that the proposed differential is reasonable because responders to PIP and COPIP Orders are willing to pay a higher fee for liquidity discovery. Responders to PIP and COPIP Orders are given the opportunity to interact with customer order flow which, in turn, allows for the opportunity for increased executions on the Exchange thus benefitting all market participants. The Exchange also believes it is reasonable and appropriate to charge initiators of PIP and COPIP Orders less than responders because initiators bring liquidity to the Exchange

which, in turn, results in increased opportunity for more executions on BOX. As such, the Exchange believes the differential is reasonable and appropriate.

Currently, if a non-Public Customer PIP or COPIP Order does not trade with its Primary Improvement Order, the Primary Improvement Order receives the \$0.45 “removal” credit and any corresponding Improvement Order responses are charged the \$0.45 “add” fee. Now, under this proposal, all SPY PIP and COPIP Orders submitted to the PIP and COPIP mechanisms that do not trade with their Primary Improvement Order shall receive a “removal” credit of \$0.45. Improvements Orders submitted to the SPY PIP and COPIP Orders executed in these mechanisms will continue to be charged the “add” fee of \$0.45. The Exchange believes this is reasonable and competitive when compared to similar fees and credits for SPY transactions at a competing venue.<sup>10</sup> Further, as discussed herein, the Exchange believes the proposed change will incentivize Participants to submit SPY order flow through the PIP and COPIP auction mechanisms thus increasing liquidity on the Exchange and increasing the opportunity for executions thus benefitting all market participants.

The Exchange believes that the proposed changes to Section III are equitable and not unfairly discriminatory in that the fees and credits apply to all categories of Participants and across all account types. The Exchange notes that liquidity fees and credits on BOX are meant to offset one another in any particular transaction. The liquidity fees and credits do not directly result in revenue to BOX, but simply allows BOX to provide incentives to Participants to attract order flow. The Exchange believes it is equitable and not unfairly discriminatory to charge lower exchange fees for initiators in the PIP and COPIP mechanisms than for responders because initiators bring liquidity to the Exchange which, in turn, allows responders to interact with customer orders thus increasing the opportunity for more executions on BOX. The Exchange believes that structuring the proposed fees and credits will incentivize initiators to bring order flow to the Exchange thus benefitting all market participants. Further, the

Exchange believes it is equitable and not unfairly discriminatory to charge higher exchange fees for responders in the PIP and COPIP mechanisms than for initiators because, as discussed herein, responders to PIP and COPIP Orders are willing to pay a higher fee for liquidity discovery and, in turn, are given the opportunity to interact with customer order flow on BOX.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing exchanges. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed liquidity fees and credits will burden competition by creating such a disparity between the fees an initiating Participant in the PIP and COPIP auction pays and the fees a competitive responder pays that would result in certain Participants being unable to compete with initiators. In fact, the Exchange believes that these changes will not impair these Participants from adding liquidity and competing in PIP and COPIP auction transactions and will help promote competition by providing incentives for market participants to submit customer order flow to BOX and thus, create a greater opportunity for customers to receive additional price improvement.

Further, the Exchange believes that the proposed liquidity fees and credits for SPY PIP and COPIP transactions will not impose a burden on competition. Rather, BOX believes that the changes will result in Participants being charged or credited appropriately for their PIP and COPIP transactions and is designed to enhance competition in auction transactions on BOX. Submitting an order is entirely voluntary and Participants can determine which type of order they wish to submit, if any, to the Exchange. The Exchange also believes that the proposed change will not impose an undue burden on intermarket competition as the proposed change will allow BOX to better compete for SPY order flow. Further, as stated above the fees and credits

<sup>8</sup> See *supra* note 5.

<sup>9</sup> See Nasdaq ISE LLC (“Nasdaq ISE”) Pricing Schedule Section 3. (Regular Order Fees and Rebates).

<sup>10</sup> See Phlx Pricing Schedule, Section 3, Part A. The Exchange notes that Phlx offers rebates ranging from \$0.12 to \$0.32 to Lead Market Makers and Market Makers for adding liquidity in SPY. Further, Phlx assesses a \$0.48 fee for Market Makers, Broker Dealers and Professionals and a \$0.42 fee for Public Customers for removing liquidity in SPY.



proposed are in line with the facilitation and solicitation fees and credits currently on BOX.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act<sup>11</sup> and Rule 19b-4(f)(2) thereunder,<sup>12</sup> because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BOX-2020-34 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-BOX-2020-34. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BOX-2020-34, and should be submitted on or before September 16, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**J. Matthew DeLesDernier,**  
*Assistant Secretary.*

[FR Doc. 2020-18679 Filed 8-25-20; 8:45 am]

**BILLING CODE 8011-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #16597 and #16598; ILLINOIS Disaster Number IL-00061]**

**Administrative Declaration of a Disaster for the State of Illinois**

**AGENCY:** Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the State of Illinois dated 08/19/2020.

*Incident:* Severe Storms and Flash Flooding.

*Incident Period:* 07/15/2020.

**DATES:** Issued on 08/19/2020.

*Physical Loan Application Deadline Date:* 10/19/2020.

*Economic Injury (EIDL) Loan Application Deadline Date:* 05/19/2021.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Woodford

*Contiguous Counties:*

Illinois: La Salle, Livingston, Marshall, McLean, Peoria, Tazewell.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners With Credit Available Elsewhere .....	2.500
Homeowners Without Credit Available Elsewhere .....	1.250
Businesses With Credit Available Elsewhere .....	6.000
Businesses Without Credit Available Elsewhere .....	3.000
Non-Profit Organizations With Credit Available Elsewhere ...	2.750
Non-Profit Organizations Without Credit Available Elsewhere .....	2.750
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere .....	3.000
Non-Profit Organizations Without Credit Available Elsewhere .....	2.750

The number assigned to this disaster for physical damage is 16597 6 and for economic injury is 16598 0.

The State which received an EIDL Declaration # is Illinois.

(Catalog of Federal Domestic Assistance Number 59008)

**Jovita Carranza,**

*Administrator.*

[FR Doc. 2020-18693 Filed 8-25-20; 8:45 am]

**BILLING CODE 8026-03-P**

**SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #16595 and #16596; MISSOURI Disaster Number MO-00106]**

**Administrative Declaration of a Disaster for the State of Missouri**

**AGENCY:** Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>12</sup> 17 CFR 240.19b-4(f)(2).

<sup>13</sup> 17 CFR 200.30-3(a)(12).



for the State of Missouri dated 08/19/2020. Incident: Severe Storms, Flooding and Flash Flooding. Incident Period: 07/19/2020 through 07/20/2020.

**DATES:** Issued on 08/19/2020.

*Physical Loan Application Deadline Date:* 10/19/2020.

*Economic Injury (EIDL) Loan Application Deadline Date:* 05/19/2021.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Buchanan, Cole.

*Contiguous Counties:*

Missouri: Andrew, Boone, Callaway, Clinton, Dekalb, Miller, Moniteau, Osage, Platte.

Kansas: Atchison, Doniphan.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners With Credit Available Elsewhere .....	2.500
Homeowners Without Credit Available Elsewhere .....	1.250
Businesses With Credit Available Elsewhere .....	6.000
Businesses Without Credit Available Elsewhere .....	3.000
Non-Profit Organizations With Credit Available Elsewhere ...	2.750
Non-Profit Organizations Without Credit Available Elsewhere .....	2.750
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere .....	3.000
Non-Profit Organizations Without Credit Available Elsewhere .....	2.750

The number assigned to this disaster for physical damage is 16595 6 and for economic injury is 16596 0.

The States which received an EIDL Declaration # are Missouri, Kansas.

(Catalog of Federal Domestic Assistance Number 59008)

**Jovita Carranza,**  
*Administrator.*

[FR Doc. 2020-18688 Filed 8-25-20; 8:45 am]

**BILLING CODE 8026-03-P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #16599 and #16600; NORTH CAROLINA Disaster Number NC-00117]**

### Administrative Declaration of a Disaster for the State of North Carolina

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the State of North Carolina dated 08/20/2020.

*Incident:* Hurricane Isaias.

*Incident Period:* 08/03/2020.

**DATES:** Issued on 08/20/2020.

*Physical Loan Application Deadline Date:* 10/19/2020.

*Economic Injury (EIDL) Loan Application Deadline Date:* 05/20/2021.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Bertie

*Contiguous Counties:*

North Carolina: Chowan, Halifax, Hertford, Martin, Northampton, Washington.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners With Credit Available Elsewhere .....	2.375
Homeowners Without Credit Available Elsewhere .....	1.188
Businesses With Credit Available Elsewhere .....	6.000
Businesses Without Credit Available Elsewhere .....	3.000

	Percent
Non-Profit Organizations With Credit Available Elsewhere ...	2.750
Non-Profit Organizations Without Credit Available Elsewhere .....	2.750
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere .....	3.000
Non-Profit Organizations Without Credit Available Elsewhere .....	2.750

The number assigned to this disaster for physical damage is 16599 8 and for economic injury is 16600 0.

The State which received an EIDL Declaration # is North Carolina.

(Catalog of Federal Domestic Assistance Number 59008)

**Jovita Carranza,**  
*Administrator.*

[FR Doc. 2020-18692 Filed 8-25-20; 8:45 am]

**BILLING CODE 8026-03-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket No. FRA-2020-0027-N-17]**

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA seeks approval of the Information Collection Request (ICR) abstracted below. Before submitting this ICR to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified below.

**DATES:** Interested persons are invited to submit comments on or before October 26, 2020.

**ADDRESSES:** Submit written comments and recommendations for the proposed ICR to either: Ms. Qiana Swayne, Information Collection Clearance Officer, at [Qiana.Swayne@dot.gov](mailto:Qiana.Swayne@dot.gov) or (202) 493-0414. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

**SUPPLEMENTARY INFORMATION:** The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days' notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. Specifically, FRA invites interested parties to comment on the following ICR regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal regulations mandate. In summary, FRA reasons that comments received will advance three objectives: (1) Reduce reporting burdens; (2) organize information collection requirements in a "user-friendly" format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

*Title:* Workforce Development Survey.

*OMB Control Number:* 2130–0621.

*Abstract:* FRA has statutory responsibility to ensure the safety of railroad operations under 49 U.S.C. 20103. To conduct safe railroad operations, the workforce must have the requisite knowledge and skills to operate equipment and utilize technologies. FRA therefore seeks to promote workforce development policy and standards to ensure the workforce has the necessary knowledge and skills to conduct safe railroad operations. Due to an increasingly dynamic and maturing workforce, combined with continual changes in knowledge and skills required to use new technologies, there is an increasing risk of not having the necessary talent pools to fill critical railroad operational positions.

Since 2011, FRA has routinely performed a comprehensive overview of the railroad industry workforce. The Railroad Industry Modal Profile was a response to the DOT National Transportation Workforce Development Initiative that required each DOT Operating Administration to produce an analysis of its industry workforce. The most recent published update in April 2016, Railroad Industry Modal Profile: An Outline of the Railroad Industry Workforce Trends, Challenges, and Opportunities, highlighted numerous workforce challenges including age, diversity, knowledge management and succession planning, work-life balance, recruitment, and the impact of evolving technology.

The prevailing workforce concerns during the early stages of the DOT National Transportation Workforce Development Initiative were the large number of retirement-eligible employees

in transportation-related fields and the national shortage of science, technology, engineering, and math graduates. Because the railroad industry had done very little hiring in the late 1980s and throughout most of the 1990s, the retirement-eligible population became quite large, even beyond that of most other industries and transportation modes (each of which was also grappling with similar retirement population concerns).

These workforce challenges persist. Although the industry has recognized the need to focus on recruitment and retention strategies, it continues to face risks in maintaining a viable workforce and building a pipeline of diverse talent. To take effective and efficient action to minimize these risks, FRA requires reliable information on current workforce development challenges, strategies, and outcomes. Initial data collected for the Railroad Industry Modal Profile established a baseline understanding of the risks and status. However, to confirm and further develop the understanding of the risks, potential solutions, and best practices that have been implemented by railroad stakeholders, this revised survey is proposed. With this submission, FRA is requesting permission to gather the needed information about the railroad industry workforce.

*Type of Request:* Revision to a currently approved information collection.

*Affected Public:* Class I freight and passenger railroads, short line and regional railroads, labor unions, major associations, academia, and specialty experts.

*Form(s):* FRA F 240.

*Respondent Universe:* 847.

*Frequency of Submission:* One-time.

*Reporting Burden:*

Workforce development professionals	Respondent universe	Total annual responses	Average time (minutes) per response	Total annual burden hours	Total annual dollar cost equivalent
Passenger Railroads .....	35	12	25.00	5.00	\$204.95
Class 1 Freight Railroads .....	7	50	25.00	20.83	853.96
Short Line & Regional Railroads .....	752	125	25.00	52.08	2,134.90
Labor Unions (with specific focus on workforce membership and railroad programs) .....	15	7	25.00	2.92	119.55
Associations (with specific focus on railroad workforce membership and the rail industry) .....	20	10	25.00	4.17	170.79
Academia (Learning institutions with dedicated curriculum and training programs for railroad industry) .....	18	9	25.00	3.75	153.71
Total .....	847	213	150.00	88.75	3,637.86

*Total Estimated Annual Responses:* 213.

*Total Estimated Annual Burden:* 88.75 hours.

*Total Estimated Annual Burden Hour Dollar Cost Equivalent:* \$3,637.86.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA

informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it

displays a currently valid OMB control number.

(Authority: 44 U.S.C. 3501–3520.)

**Brett A. Jortland,**

*Deputy Chief Counsel.*

[FR Doc. 2020–18683 Filed 8–25–20; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning the Affordable Care Act notice of rescissions.

**DATES:** Written comments should be received on or before October 26, 2020 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Kinna Brewington, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information should be directed to Sara Covington, at (202) 317–5744 or Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at [Sara.L.Covington@irs.gov](mailto:Sara.L.Covington@irs.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Affordable Care Act Notice of Rescissions.

*OMB Number:* 1545–2180.

*Regulation Project Number:* TD 9744.

*Abstract:* This document contains final regulations regarding grandfathered health plans, preexisting condition exclusions, lifetime and annual dollar limits on benefits, rescissions, coverage of dependent children to age 26, internal claims and appeal and external review processes, and patient protections under the Affordable Care Act.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 1,533.

*Estimated Total Annual Burden*

*Hours:* 20 Hours.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 20, 2020.

**Chakinna B. Clemons,**

*Supervisory Tax Analyst.*

[FR Doc. 2020–18686 Filed 8–25–20; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and

other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Income, Gift and Estate Tax.

**DATES:** Written comments should be received on or before October 26, 2020 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Kinna Brewington, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

#### FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the regulation should be directed to Martha R. Brinson, at (202) 317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at [Martha.R.Brinson@irs.gov](mailto:Martha.R.Brinson@irs.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Income, Gift and Estate Tax.

*OMB Number:* 1545–1360.

*Regulation Project Number:* TD 8612.

*Abstract:* This regulation concerns the availability of the gift and estate tax marital deduction when the donee spouse or the surviving spouse is not a United States citizen. The regulation provides guidance to individuals or fiduciaries: (1) For making a qualified domestic trust election on the estate tax return of a decedent whose surviving spouse is not a United States citizen in order that the estate may obtain the marital deduction, and (2) for filing the annual returns that such an election may require.

*Current Actions:* There are no changes being made to this regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 2,300.

*Estimated Time per Respondent:* 2 hours, 40 minutes.

*Estimated Total Annual Burden Hours:* 6,150.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will

be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 20, 2020.

**Martha R. Brinson,**  
Tax Analyst.

[FR Doc. 2020-18749 Filed 8-25-20; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### **Proposed Collection; Comment Request for Certain Transfers of Domestic Stock or Securities by U.S. Persons to Foreign Corporations**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning certain transfers of domestic stock or securities by U.S. persons to foreign corporations.

**DATES:** Written comments should be received on or before October 26, 2020 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Kinna Brewington, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form should be directed to Kerry Dennis, at (202) 317-5751 or Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at [Kerry.Dennis@irs.gov](mailto:Kerry.Dennis@irs.gov).

**SUPPLEMENTARY INFORMATION:**

*Title:* Certain Transfers of Domestic Stock or Securities by U.S. Persons to Foreign Corporations.

*OMB Number:* 1545-1478.

*Regulation Project Number:* TD 8702.

*Abstract:* This regulation relates to certain transfers of stock or securities of domestic corporations pursuant to the corporate organization, reorganization, or liquidation provisions of the internal Revenue Code. Transfers of stock or securities by U.S. persons in tax-free transactions are treated as taxable transactions when the acquirer is a foreign corporation, unless an exception applies under Code section 367(a). This regulation provides that no U.S. person will qualify for an exception unless the U.S. target company complies with certain reporting requirements.

*Current Actions:* There are no changes being made to the regulations at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 100.

*Estimated Time per Respondent:* 10 minutes.

*Estimated Total Annual Burden Hours:* 1,000.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital

or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 20, 2020.

**Chakinna B. Clemons,**  
Supervisory Tax Analyst.

[FR Doc. 2020-18750 Filed 8-25-20; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0051]

### **Agency Information Collection Activity Under OMB Review: State Approving Agency Reports and Notices**

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. Refer to "OMB Control No. 2900-0051."

**FOR FURTHER INFORMATION CONTACT:** Danny S. Green, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 421-1354 or email [danny.green2@va.gov](mailto:danny.green2@va.gov). Please refer to "OMB Control No. 2900-0051" in any correspondence.

#### **SUPPLEMENTARY INFORMATION:**

*Authority:* 38 CFR 21.4154, 21.4250(b), 21.4258, 21.4259; 38 CFR 21.4154 which addresses reporting SAA activities (38 U.S.C. 3674(c)), 38 CFR 21.4250(b) which addresses notices of approvals, suspension of approvals, and disapprovals (38 U.S.C. 3678, 3679), 38 CFR 21.4258 which addresses notices of approvals, and 38 CFR 21.4259 which addresses notices of suspension or disapproval.

*Title:* State Approving Agency Reports and Notices.

*OMB Control Number:* 2900–0051.

*Type of Review:* Revision of a currently approved collection.

*Abstract:* Information collected under 38 CFR 21.4154—The SAA reports its activities to VA quarterly. The SAA does so electronically by completing a web-based screen. VA uses the information in the reports to support the reimbursement of activities of the SAA.

Information collected under 38 CFR 21.4250(b), 21.4258, and 21.4259—The SAA prepares notices of approval to inform educational institutions, training establishments, and organizations or entities that their courses, training, or tests are not approved or the approval of previously approved courses, training, or tests is suspended. The SAA must also send VA a copy of each of these notices. There are 57 SAAs, each with its own jurisdiction for approval of courses, training, or tests. Some States have more than one SAA because one internal agency is responsible for schools, another for workplace training. Additionally, the District of Columbia, Puerto Rico and the U.S. Virgin Islands have authorized SAA jurisdictions.

The SAA approves, disapproves, or suspends program approval based on the criteria in 38 U.S.C. chapter 36. Some of the criteria used in these determinations include site visits; and review of course materials, training programs, instructors' credentials, or review of tests for licensure and certification.

VA uses the approval notice information (or lack thereof) to determine if payment of educational assistance is appropriate. Under 38 U.S.C. 3680, VA may not provide educational assistance to any eligible veteran or eligible person if his or her educational program or training program does not meet the requirements of 38 U.S.C. 3670 *et seq.* Without these notices, VA would not know which programs the SAA determined met the criteria in 38 U.S.C. chapter 36. Without disapproval notices, or notices of suspended approval, VA would make inappropriate payments to Veterans and their dependents. 38 CFR 21.4258(a) requires the SAA list individual programs approved in the notice. This requirement is needed since not all courses/programs an educational institution provides are approvable under 38 U.S.C. chapter 36. For example, some schools offer courses that are recreational in nature. Payment for recreational courses is prohibited under 38 U.S.C. 3680A. Listing approved courses in the notice ensures

VA pays educational assistance for only those courses/programs approved.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 85 FR 80 on April 24, 2020, page 23139.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 68,043 hours.

*Estimated Average Burden per Respondent:* 15 hours.

*Frequency of Response:* Once Quarterly.

*Actual Number of Respondents:* 4,578.

By direction of the Secretary.

**Danny S. Green,**

*VA Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.*

[FR Doc. 2020–18694 Filed 8–25–20; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0657]

### Agency Information Collection Activity Under OMB Review: Conflicting Interests Certification for Proprietary Schools

**AGENCY:** Veterans Benefits

Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Refer to “OMB Control No. 2900–0657.”

### FOR FURTHER INFORMATION CONTACT:

Danny S. Green, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 421–1354 or email [danny.green2@va.gov](mailto:danny.green2@va.gov). Please refer to “OMB Control No. 2900–0657” in any correspondence.

### SUPPLEMENTARY INFORMATION:

*Authority:* 38 U.S.C. 3683; 38 CFR 21.4200(z); 38 CFR 21.4202(c); 38 CFR 21.5200(c); 38 CFR 21.7122(e)(6); and 38 CFR 21.7622(f)(4)(iv).

*Title:* Conflicting Interests

Certification for Proprietary Schools.

*OMB Control Number:* 2900–0657.

*Type of Review:* Revision of a currently approved collection.

*Abstract:* Schools are required to submit information necessary to determine if their programs of training are approved for the payment of VA educational assistance. This specified information is submitted either to VA or to the State Approving Agency (SAA) having jurisdiction over that school. Certain schools are considered “proprietary” schools. A proprietary educational institution, as defined in 38 CFR 21.4200(z), is a private institution legally authorized to offer a program of education in the State where the institution is physically located. Section 3683 of title 38, U.S.C., and sections of title 38 of the Code of Federal Regulations (CFR) establish conflict of interest restrictions related to proprietary schools. The VA Form 22–1919 is the instrument VA has implemented to address these restrictions.

(a) VA Form 22–1919 is only used to collect information on two issues:

(i) Section 3683 of title 38, U.S.C., prohibits employees of VA and the SAA from owning any interest in an educational institution operated for-profit. In addition, the law prohibits VA or SAA employees from receiving any wages, salary, dividends, profits, or gifts from private for-profit schools in which an eligible person is pursuing a program of education under an educational assistance program administered by VA. In addition, the law prohibits VA employees from receiving any services from these schools. These provisions may be waived if VA determines that no detriment will result to the government, or to Veterans or eligible persons enrolled at that private for-profit school. Item 1 of VA Form 22–1919 collects the name and title of affected VA and SAA employees known by the President (or Chief Administrative Official) of the school, as well as a description of these employees' association with that school.

(ii) Sections 21.4202(c), 21.5200(c), 21.7122(e)(6), and 21.7622(f)(4)(iv) of

title 38 of the CFR prohibit the approval of educational assistance from VA for the enrollment of an eligible person in any proprietary school where the trainee is an official authorized to sign certifications of enrollment. Item 2 of VA Form 22–1919 collects the following information for each certifying official, owner, or officer who receives VA educational assistance based on an enrollment in that proprietary school: The name and title of these employees; VA file numbers; and dates of enrollment at the proprietary school.

(b) VA only collects this information at the time one (or more) of these events occurs:

(i) The initial approval of a program or course at a proprietary for-profit school;

(ii) Any change of ownership of the school (either reported by the school or found upon review of a school's records during VA's "compliance survey");

(iii) A change in proprietary status (from non-proprietary to proprietary, or from non-profit to profit status).

When the SAA, or VA acting as the SAA, visits the school in connection with the school's request for approval of its program(s), the representative has

either the school's President or chief administrative official sign VA Form 22–1919. VA's Education Liaison Representative (ELR) will associate the completed VA Form 22–1919 with the other documentation compiled for approval of the school's program(s) and will retain this information in the approval folder. The approval folder is retained until such time as the SAA or VA withdraws approval of all courses at the school. All information in the approval folder is then destroyed according to established record control schedules.

(c) The following administrative and legal requirements affect proprietary schools as defined in 38 CFR 21.4200(z) and necessitate the VA Form 22–1919 collection:

i. 38 U.S.C. 3683, *Conflicting Interests*. Impacts proprietary for-profit schools only.

ii. Regulations that reflect the restrictions applicable to all proprietary schools:

A. 38 CFR 21.4202(c). *Overcharges; restrictions on enrollments*. Restrictions; proprietary schools.

B. 38 CFR 21.5200(c). *Schools. Overcharges; restrictions on*

*enrollments*. Restrictions; proprietary schools.

C. 38 CFR 21.7122(e)(6). *Courses precluded*. Other courses.

D. 38 CFR 21.7622(f)(4)(iv). *Courses precluded*. Other courses.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register Notice** with a 60-day comment period soliciting comments on this collection of information was published on 85, FR, 120, June 22, 2020, at pages 37498–37499.

*Affected Public*: Institutions of Higher Learning.

*Estimated Annual Burden*: 56 hours.

*Estimated Average Burden per Respondent*: 10 minutes.

*Frequency of Response*: Occasionally.

*Actual Number of Respondents*: 336.

By direction of the Secretary.

**Danny S. Green,**

*VA Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.*

[FR Doc. 2020–18742 Filed 8–25–20; 8:45 am]

**BILLING CODE 8320–01–P**



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part II

Regulatory Information Service Center

---

Semiannual Regulatory Agenda

**REGULATORY INFORMATION  
SERVICE CENTER****Introduction to the Unified Agenda of  
Federal Regulatory and Deregulatory  
Actions**

**AGENCY:** Regulatory Information Service Center.

**ACTION:** Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions.

**SUMMARY:** Spring 2020 Unified Agenda of Federal Regulatory and Deregulatory Actions.

Publication of the *Spring 2020 Unified Agenda of Federal Regulatory and Deregulatory Actions* represents a key component of the regulatory planning mechanism prescribed in Executive Order 12866 “Regulatory Planning and Review” (58 FR 51735) and Executive Order 13771 (82 FR 93390, January 30, 2017, Reducing Regulation and Controlling Regulatory Costs. The Regulatory Flexibility Act requires that agencies publish semiannual regulatory agendas in the **Federal Register** describing regulatory actions they are developing that may have a significant economic impact on a substantial number of small entities (5 U.S.C. 602).

In the *Unified Agenda of Federal Regulatory and Deregulatory Actions* (Unified Agenda) agencies report regulatory actions upcoming in the next year. Executive Order 12866 “Regulatory Planning and Review,” signed September 30, 1993 (58 FR 51735), and Office of Management and Budget memoranda implementing section 4 of that Order establish minimum standards for agencies’ agendas, including specific types of information for each entry.

The Unified Agenda helps agencies fulfill these requirements. All Federal regulatory agencies have chosen to publish their regulatory agendas as part of the Unified Agenda. The complete publication of the Spring 2020 Unified Agenda containing the regulatory agendas for 71 Federal agencies, is available to the public at <http://reginfo.gov>.

The Spring 2020 Unified Agenda publication appearing in the **Federal Register** consists of agency regulatory flexibility agendas, in accordance with the publication requirements of the Regulatory Flexibility Act. Agency regulatory flexibility agendas contain only those Agenda entries for rules that are likely to have a significant economic impact on a substantial number of small entities and entries that have been selected for periodic review under

section 610 of the Regulatory Flexibility Act.

**ADDRESSES:** Regulatory Information Service Center (MVE), General Services Administration, 1800 F Street NW, Boris Arratia, Director, MR, Room 2121D, Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** For further information about specific regulatory actions, please refer to the agency contact listed for each entry. To provide comment on or to obtain further information about this publication, contact: Boris Arratia, Director, Regulatory Information Service Center (MR), General Services Administration, 1800 F Street NW, Room 2221D, Washington, DC 20405, 703-795-0816. You may also send comments to us by email at: [RISC@gsa.gov](mailto:RISC@gsa.gov).

**SUPPLEMENTARY INFORMATION:** For spring 2020, the Office of the Federal Register and RISC worked together to sign and submit all documents electronically. As a result of this partnership, RISC has been delegated authority from the following agencies to electronically sign on their behalf:

Department of Commerce—0600  
Department of Agriculture—0500

**Table of Contents****Introduction to the Unified Agenda of  
Federal Regulatory and Deregulatory  
Actions**

- I. What is the Unified Agenda?
- II. Why is the Unified Agenda Published?
- III. How is the Unified Agenda organized?
- IV. What information appears for each entry?
- V. Abbreviations
- VI. How can users get copies of the Plan and the Agenda?

**Agency Agendas***Cabinet Departments*

Department of Agriculture  
Department of Commerce  
Department of Defense  
Department of Energy  
Department of Health and Human Services  
Department of Homeland Security  
Department of Interior  
Department of Labor  
Department of Transportation  
Department of Treasury

*Other Executive Agencies*

Architectural and Transportation Barriers  
Compliance Board  
Committee for Purchase From People Who  
Are Blind or Severely Disabled  
Environmental Protection Agency  
General Services Administration  
National Aeronautics and Space  
Administration  
Office of Management and Budget  
Railroad Retirement Board  
Small Business Administration

*Joint Authority*

Department of Defense/General Services  
Administration/National Aeronautics

and Space Administration (Federal  
Acquisition Regulation)

*Independent Regulatory Agencies*

Commodity Futures Trading Commission  
Consumer Financial Protection Bureau  
Consumer Product Safety Commission  
Federal Communications Commission  
Federal Permitting Improvement Steering  
Council  
Federal Reserve System  
National Labor Relations Board  
Nuclear Regulatory Commission  
Securities and Exchange Commission  
Surface Transportation Board

**Introduction to the Unified Agenda of  
Federal Regulatory and Deregulatory  
Actions****I. What is the Unified Agenda?**

The Unified Agenda provides information about regulations that the Government is considering or reviewing. The Unified Agenda has appeared in the **Federal Register** twice each year since 1983 and has been available online since 1995. The complete Unified Agenda is available to the public at <http://reginfo.gov>. The online Unified Agenda offers user-friendly flexible search tools and a vast historical database.

The Spring 2020 Unified Agenda publication appearing in the **Federal Register** consists of agency regulatory flexibility agendas, in accordance with the publication requirements of the Regulatory Flexibility Act. Agency regulatory flexibility agendas contain only those Agenda entries for rules that are likely to have a significant economic impact on a substantial number of small entities and entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act. Printed entries display only the fields required by the Regulatory Flexibility Act. Complete agenda information for those entries appears, in a uniform format, in the online Unified Agenda at <http://reginfo.gov>.

These publication formats meet the publication mandates of the Regulatory Flexibility Act and Executive Order 12866. The complete online edition of the Unified Agenda includes regulatory agendas from Federal agencies. Agencies of the United States Congress are not included.

The following agencies have *no entries* identified for inclusion in the printed regulatory flexibility agenda. The regulatory agendas of these agencies are available to the public at <http://reginfo.gov>.

*Cabinet Departments*

Department of Education  
Department of Housing and Urban  
Development



Department of Justice  
 Department of State  
 Department of Veterans Affairs

*Other Executive Agencies*

Agency for International Development  
 American Battle Monuments Commission  
 Commission on Civil Rights  
 Corporation for National and Community Service  
 Council on Environmental Quality  
 Court Services and Offender Supervision Agency for the District of Columbia  
 Equal Employment Opportunity Commission  
 Federal Mediation and Conciliation Service  
 Institute of Museum and Library Science  
 National Archives and Records Administration  
 National Endowment for the Arts  
 National Endowment for the Humanities  
 National Mediation Board  
 National Science Foundation  
 Office of Government Ethics  
 Office of National Drug Control Policy  
 Office of Personnel Management  
 Office of the United States Trade Representative  
 Peace Corps  
 Pension Benefit Guaranty Corporation  
 Presidio Trust  
 Privacy and Civil Liberties Oversight Board  
 Social Security Administration  
 U.S. Agency for Global Media

*Independent Agencies*

Council of the Inspectors General on Integrity and Efficiency  
 Farm Credit Administration  
 Farm Credit System Insurance Corporation  
 Federal Deposit Insurance Corporation  
 Federal Energy Regulatory Commission  
 Federal Housing Finance Agency  
 Federal Maritime Commission  
 Federal Mine Safety and Health Review Commission  
 Federal Trade Commission  
 National Credit Union Administration  
 National Transportation Safety Board  
 Postal Regulatory Commission  
 U.S. Chemical Safety and Hazard Investigation Board

The Regulatory Information Service Center compiles the Unified Agenda for the Office of Information and Regulatory Affairs (OIRA), part of the Office of Management and Budget. OIRA is responsible for overseeing the Federal Government's regulatory, paperwork, and information resource management activities, including implementation of Executive Order 12866 (incorporated by reference in Executive Order 13563).

The Center also provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency officials, and the public.

The activities included in the Unified Agenda are, in general, those that will have a regulatory action within the next 12 months. Agencies may choose to include activities that will have a longer timeframe than 12 months. Agency agendas also show actions or reviews completed or withdrawn since the last Unified Agenda. Executive Order 12866 does not require agencies to include regulations concerning military or foreign affairs functions or regulations related to agency organization, management, or personnel matters.

Agencies prepared entries for this publication to give the public notice of their plans to review, propose, and issue or withdraw regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change. Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed. The Unified Agenda does not create a legal obligation on agencies to adhere to schedules in this publication or to confine their regulatory activities to those regulations that appear within it.

## II. Why is the Unified Agenda published?

The Unified Agenda helps agencies comply with their obligations under the Regulatory Flexibility Act and various Executive orders and other statutes.

### *Executive Order 12866*

*Executive Order 12866* entitled "Regulatory Planning and Review," signed September 30, 1993, (58 FR 51735), requires covered agencies to prepare an agenda of all regulations under development or review. The Order also requires that certain agencies prepare annually a regulatory plan of their "most important significant regulatory actions," which appears as part of the fall Unified Agenda.

### *Executive Order 13771 Reducing Regulation and Controlling Regulatory Costs*

*Executive Order 13771* entitled "Reducing Regulation and Controlling Regulatory Costs" signed January 27, 2017, (82 FR 8977) requires that for every one new regulation issued, at least two prior regulations be identified for

elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.

### *Regulatory Flexibility Act*

The *Regulatory Flexibility Act* requires agencies to identify those rules that may have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). Agencies meet that requirement by including the information in their submissions for the Unified Agenda. Agencies may also indicate those regulations that they are reviewing as part of their periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610). Executive Order 13272 entitled "Proper Consideration of Small Entities in Agency Rulemaking," signed August 13, 2002, (67 FR 53461), provides additional guidance on compliance with the Act.

### *Executive Order 13132*

*Executive Order 13132* entitled "Federalism," signed August 4, 1999, (64 FR 43255), directs agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have "federalism implications" as defined in the Order. Under the Order, an agency that is proposing a regulation with federalism implications, which either preempt State law or impose non-statutory unfunded substantial direct compliance costs on State and local governments, must consult with State and local officials early in the process of developing the regulation. In addition, the agency must provide to the Director of the Office of Management and Budget a federalism summary impact statement for such a regulation, which consists of a description of the extent of the agency's prior consultation with State and local officials, a summary of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which those concerns have been met. As part of this effort, agencies include in their submissions for the Unified Agenda information on whether their regulatory actions may have an effect on the various levels of government and whether those actions have federalism implications.

### *Unfunded Mandates Reform Act of 1995*

The *Unfunded Mandates Reform Act of 1995* (Pub. L. 104–4, title II) requires agencies to prepare written assessments of the costs and benefits of significant regulatory actions "that may result in the expenditure by State, local, and

tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more . . . in any 1 year . . . .” The requirement does not apply to independent regulatory agencies, nor does it apply to certain subject areas excluded by section 4 of the Act. Affected agencies identify in the Unified Agenda those regulatory actions they believe are subject to title II of the Act.

#### *Executive Order 13211*

*Executive Order 13211* entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” signed May 18, 2001, (66 FR 28355), directs agencies to provide, to the extent possible, information regarding the adverse effects that agency actions may have on the supply, distribution, and use of energy. Under the Order, the agency must prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for “those matters identified as significant energy actions.” As part of this effort, agencies may optionally include in their submissions for the Unified Agenda information on whether they have prepared or plan to prepare a Statement of Energy Effects for their regulatory actions.

#### *Small Business Regulatory Enforcement Fairness Act*

The *Small Business Regulatory Enforcement Fairness Act* (Pub. L. 104–121, title II) established a procedure for congressional review of rules (5 U.S.C. 801 *et seq.*), which defers, unless exempted, the effective date of a “major” rule for at least 60 days from the publication of the final rule in the **Federal Register**. The Act specifies that a rule is “major” if it has resulted, or is likely to result, in an annual effect on the economy of \$100 million or more or meets other criteria specified in that Act. The Act provides that the Administrator of OIRA will make the final determination as to whether a rule is major.

### **III. How is the Unified Agenda organized?**

Agency regulatory flexibility agendas are printed in a single daily edition of the **Federal Register**. A regulatory flexibility agenda is printed for each agency whose agenda includes entries for rules which are likely to have a significant economic impact on a substantial number of small entities or rules that have been selected for periodic review under section 610 of the Regulatory Flexibility Act. Each printed agenda appears as a separate part. The

parts are organized alphabetically in four groups: Cabinet departments; other executive agencies; the Federal Acquisition Regulation, a joint authority; and independent regulatory agencies. Agencies may in turn be divided into sub-agencies. Each agency’s part of the Agenda contains a preamble providing information specific to that agency. Each printed agency agenda has a table of contents listing the agency’s printed entries that follow.

The online, complete Unified Agenda contains the preambles of all participating agencies. In the online Agenda, users can select the particular agencies whose agendas they want to see. Users have broad flexibility to specify the characteristics of the entries of interest to them by choosing the desired responses to individual data fields. To see a listing of all of an agency’s entries, a user can select the agency without specifying any particular characteristics of entries.

Each entry in the Unified Agenda is associated with one of five rulemaking stages. The rulemaking stages are:

1. *Prerule Stage*—actions agencies will undertake to determine whether or how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking (NPRM) and may include Advance Notices of Proposed Rulemaking (ANPRMs) and reviews of existing regulations.

2. *Proposed Rule Stage*—actions for which agencies plan to publish a Notice of Proposed Rulemaking as the next step in their rulemaking process or for which the closing date of the NPRM Comment Period is the next step.

3. *Final Rule Stage*—actions for which agencies plan to publish a final rule or an interim final rule or to take other final action as the next step.

4. *Long-Term Actions*—items under development but for which the agency does not expect to have a regulatory action within the 12 months after publication of this edition of the Unified Agenda. Some of the entries in this section may contain abbreviated information.

5. *Completed Actions*—actions or reviews the agency has completed or withdrawn since publishing its last agenda. This section also includes items the agency began and completed between issues of the Agenda.

Long-Term Actions are rulemakings reported during the publication cycle that are outside of the required 12-month reporting period for which the Agenda was intended. Completed Actions in the publication cycle are rulemakings that are ending their lifecycle either by Withdrawal or completion of the rulemaking process.

Therefore, the Long-Term and Completed RINs do not represent the ongoing, forward-looking nature intended for reporting developing rulemakings in the Agenda pursuant to Executive Order 12866, section 4(b) and 4(c). To further differentiate these two stages of rulemaking in the Unified Agenda from active rulemakings, Long-Term and Completed Actions are reported separately from active rulemakings, which can be any of the first three stages of rulemaking listed above. A separate search function is provided on <http://reginfo.gov> to search for Completed and Long-Term Actions apart from each other and active RINs.

A bullet (•) preceding the title of an entry indicates that the entry is appearing in the Unified Agenda for the first time.

In the printed edition, all entries are numbered sequentially from the beginning to the end of the publication. The sequence number preceding the title of each entry identifies the location of the entry in this edition. The sequence number is used as the reference in the printed table of contents. Sequence numbers are not used in the online Unified Agenda because the unique RIN is able to provide this cross-reference capability.

Editions of the Unified Agenda prior to fall 2007 contained several indexes, which identified entries with various characteristics. These included regulatory actions for which agencies believe that the Regulatory Flexibility Act may require a Regulatory Flexibility Analysis, actions selected for periodic review under section 610(c) of the Regulatory Flexibility Act, and actions that may have federalism implications as defined in Executive Order 13132 or other effects on levels of government. These indexes are no longer compiled, because users of the online Unified Agenda have the flexibility to search for entries with any combination of desired characteristics.

### **IV. What information appears for each entry?**

All entries in the online Unified Agenda contain uniform data elements including, at a minimum, the following information:

*Title of the Regulation*—a brief description of the subject of the regulation. In the printed edition, the notation “Section 610 Review” following the title indicates that the agency has selected the rule for its periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610(c)). Some agencies have indicated completions of section 610 reviews or rulemaking actions resulting from

completed section 610 reviews. In the online edition, these notations appear in a separate field.

**Priority**—an indication of the significance of the regulation. Agencies assign each entry to one of the following five categories of significance.

**(1) Economically Significant**

As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of \$100 million or more or will adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The definition of an “economically significant” rule is similar but not identical to the definition of a “major” rule under 5 U.S.C. 801 (Pub. L. 104–121). (See below.)

**(2) Other Significant**

A rulemaking that is not Economically Significant but is considered Significant by the agency. This category includes rules that the agency anticipates will be reviewed under Executive Order 12866 or rules that are a priority of the agency head. These rules may or may not be included in the agency’s regulatory plan.

**(3) Substantive, Nonsignificant**

A rulemaking that has substantive impacts but is neither Significant, nor Routine and Frequent, nor Informational/Administrative/Other.

**(4) Routine and Frequent**

A rulemaking that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

**(5) Informational/Administrative/Other**

A rulemaking that is primarily informational or pertains to agency matters not central to accomplishing the agency’s regulatory mandate but that the agency places in the Unified Agenda to inform the public of the activity.

**Major**—whether the rule is “major” under 5 U.S.C. 801 (Pub. L. 104–121) because it has resulted or is likely to result in an annual effect on the economy of \$100 million or more or meets other criteria specified in that Act. The Act provides that the Administrator of the Office of Information and Regulatory Affairs will make the final determination as to whether a rule is major.

**E.O. 13771 Designation**—Indicate “Deregulatory”, “Regulatory”, “Fully or Partially Exempt”, “Not subject to, Not

significant, “Other”, or “Independent agency”.

**Unfunded Mandates**—whether the rule is covered by section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). The Act requires that, before issuing an NPRM likely to result in a mandate that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector of more than \$100 million in 1 year, agencies, other than independent regulatory agencies, shall prepare a written statement containing an assessment of the anticipated costs and benefits of the Federal mandate.

**Legal Authority**—the section(s) of the United States Code (U.S.C.) or Public Law (Pub. L.) or the Executive order (E.O.) that authorize(s) the regulatory action. Agencies may provide popular name references to laws in addition to these citations.

**CFR Citation**—the section(s) of the Code of Federal Regulations that will be affected by the action.

**Legal Deadline**—whether the action is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to an NPRM, a Final Action, or some other action.

**Abstract**—a brief description of the problem the regulation will address; the need for a Federal solution; to the extent available, alternatives that the agency is considering to address the problem; and potential costs and benefits of the action.

**Timetable**—the dates and citations (if available) for all past steps and a projected date for at least the next step for the regulatory action. A date displayed in the form 06/00/14 means the agency is predicting the month and year the action will take place but not the day it will occur. In some instances, agencies may indicate what the next action will be, but the date of that action is “To Be Determined.” “Next Action Undetermined” indicates the agency does not know what action it will take next.

**Regulatory Flexibility Analysis Required**—whether an analysis is required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because the rulemaking action is likely to have a significant economic impact on a substantial number of small entities as defined by the Act.

**Small Entities Affected**—the types of small entities (businesses, governmental jurisdictions, or organizations) on which the rulemaking action is likely to have an impact as defined by the Regulatory Flexibility Act. Some agencies have chosen to indicate likely effects on small entities even though they believe

that a Regulatory Flexibility Analysis will not be required.

**Government Levels Affected**—whether the action is expected to affect levels of government and, if so, whether the governments are State, local, tribal, or Federal.

**International Impacts**—whether the regulation is expected to have international trade and investment effects, or otherwise may be of interest to the Nation’s international trading partners.

**Federalism**—whether the action has “federalism implications” as defined in Executive Order 13132. This term refers to actions “that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” Independent regulatory agencies are not required to supply this information.

**Included in the Regulatory Plan**—whether the rulemaking was included in the agency’s current regulatory plan published in fall 2019.

**Agency Contact**—the name and phone number of at least one person in the agency who is knowledgeable about the rulemaking action. The agency may also provide the title, address, fax number, email address, and TDD for each agency contact.

Some agencies have provided the following optional information:

**RIN Information URL**—the internet address of a site that provides more information about the entry.

**Public Comment URL**—the internet address of a site that will accept public comments on the entry. Alternatively, timely public comments may be submitted at the government-wide e-rulemaking site, <http://www.regulations.gov>.

**Additional Information**—any information an agency wishes to include that does not have a specific corresponding data element.

**Compliance Cost to the Public**—the estimated gross compliance cost of the action.

**Affected Sectors**—the industrial sectors that the action may most affect, either directly or indirectly. Affected sectors are identified by North American Industry Classification System (NAICS) codes.

**Energy Effects**—an indication of whether the agency has prepared or plans to prepare a Statement of Energy Effects for the action, as required by Executive Order 13211 “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” signed May 18, 2001 (66 FR 28355).

*Related RINs*—one or more past or current RIN(s) associated with activity related to this action, such as merged RINs, split RINs, new activity for previously completed RINs, or duplicate RINs.

Some agencies that participated in the fall 2017 edition of The Regulatory Plan have chosen to include the following information for those entries that appeared in the Plan:

*Statement of Need*—a description of the need for the regulatory action.

*Summary of the Legal Basis*—a description of the legal basis for the action, including whether any aspect of the action is required by statute or court order.

*Alternatives*—a description of the alternatives the agency has considered or will consider as required by section 4(c)(1)(B) of Executive Order 12866.

*Anticipated Costs and Benefits*—a description of preliminary estimates of the anticipated costs and benefits of the action.

*Risks*—a description of the magnitude of the risk the action addresses, the amount by which the agency expects the action to reduce this risk, and the relation of the risk and this risk reduction effort to other risks and risk reduction efforts within the agency's jurisdiction.

## V. Abbreviations

The following abbreviations appear throughout this publication:

*ANPRM*—An Advance Notice of Proposed Rulemaking is a preliminary notice, published in the **Federal Register**, announcing that an agency is considering a regulatory action. An agency may issue an ANPRM before it develops a detailed proposed rule. An ANPRM describes the general area that may be subject to regulation and usually asks for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a notice of proposed rulemaking.

*CFR*—The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the **Federal Register** by the agencies of the Federal Government. The Code is divided into 50 titles, each title covering a broad area subject to Federal regulation. The CFR is keyed to and kept up to date by the daily issues of the **Federal Register**.

*E.O.*—An Executive order is a directive from the President to Executive agencies, issued under constitutional or statutory authority. Executive orders are published in the **Federal Register** and in title 3 of the Code of Federal Regulations.

*FR*—The **Federal Register** is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents issued by Federal agencies.

*FY*—The Federal fiscal year runs from October 1 to September 30.

*NPRM*—A Notice of Proposed Rulemaking is the document an agency issues and publishes in the **Federal Register** that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act (5 U.S.C. 553), an NPRM must include, at a minimum:

A statement of the time, place, and nature of the public rulemaking proceeding; a reference to the legal authority under which the rule is proposed; and either the terms or substance of the proposed rule or a description of the subjects and issues involved.

*Pub. L.*—A public law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, unlike a private law that applies only to those persons or entities specifically designated. Public Laws are numbered in sequence throughout the 2-year life of each Congress; for example, Public Law 110–4 is the fourth public law of the 110th Congress.

*RFA*—A Regulatory Flexibility Analysis is a description and analysis of the impact of a rule on small entities, including small businesses, small governmental jurisdictions, and certain small not-for-profit organizations. The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires each agency to prepare an initial RFA for public comment when it is required to publish an NPRM and to make available a final RFA when the final rule is published, unless the agency head certifies that the rule would not have a significant economic impact on a substantial number of small entities.

*RIN*—The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify each regulatory action listed in the

Unified Agenda, as directed by Executive Order 12866 (section 4(b)). Additionally, OMB has asked agencies to include RINs in the headings of their Rule and Proposed Rule documents when publishing them in the **Federal Register**, to make it easier for the public and agency officials to track the publication history of regulatory actions throughout their development.

*Seq. No.*—The sequence number identifies the location of an entry in the printed edition of the Unified Agenda. Note that a specific regulatory action will have the same RIN throughout its development but will generally have different sequence numbers if it appears in different printed editions of the Unified Agenda. Sequence numbers are not used in the online Unified Agenda.

*U.S.C.*—The United States Code is a consolidation and codification of all general and permanent laws of the United States. The U.S.C. is divided into 50 titles, each title covering a broad area of Federal law.

## VI. How can users get copies of the Agenda?

Copies of the **Federal Register** issue containing the printed edition of the Unified Agenda (agency regulatory flexibility agendas) are available from the Superintendent of Documents, U.S. Government Publishing Office, P.O. Box 371954, Pittsburgh, PA 15250–7954. Telephone: (202) 512–1800 or 1–866–512–1800 (toll-free).

Copies of individual agency materials may be available directly from the agency or may be found on the agency's website. Please contact the particular agency for further information.

All editions of The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions since fall 1995 are available in electronic form at <http://reginfo.gov>, along with flexible search tools.

The Government Publishing Office's GPO FDsys website contains copies of the Agendas and Regulatory Plans that have been printed in the **Federal Register**. These documents are available at <http://www.fdsys.gov>.

Dated: June 15, 2020.

**Boris Arratia,**  
Director.

[FR Doc. 2020–16754 Filed 8–25–20; 8:45 am]

BILLING CODE 6820–27–P



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part III

Department of Agriculture

---

Semiannual Regulatory Agenda

**DEPARTMENT OF AGRICULTURE****Office of the Secretary****2 CFR Subtitle B, Ch. IV****5 CFR Ch. LXXIII****7 CFR Subtitle A; Subtitle B, Chs. I–XI, XIV–XVIII, XX, XXV–XXXVIII, XLII****9 CFR Chs. I–III****36 CFR Ch. II****48 CFR Ch. 4****Semiannual Regulatory Agenda, Spring 2020****AGENCY:** Office of the Secretary, USDA.**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This agenda provides summary descriptions of the significant and not significant regulatory and deregulatory actions being developed in agencies of the U.S. Department of Agriculture (USDA) in conformance with Executive Orders (E.O.) 12866 “Regulatory Planning and Review,” 13563, “Improving Regulation and Regulatory Review,” 13771 “Reducing Regulation and Controlling Regulatory

Costs,” and 13777, “Enforcing the Regulatory Reform Agenda.” The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Public Law 96–354. This agenda also identifies regulatory actions that are being reviewed in compliance with section 610(c) of the Regulatory Flexibility Act. We invite public comment on those actions as well as any regulation consistent with E.O. 13563.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication except for minor and routine or repetitive actions, but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

USDA’s complete regulatory agenda is available online at [www.reginfo.gov](http://www.reginfo.gov). Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), USDA’s printed agenda entries include only:

(1) Rules that are likely to have a significant economic impact on a

substantial number of small entities; and

(2) Rules identified for periodic review under section 610 of the Regulatory Flexibility Act.

**FOR FURTHER INFORMATION CONTACT:** For further information on any specific entry shown in this agenda, please contact the person listed for that action. For general comments or inquiries about the agenda, please contact Michael Poe, Office of Budget and Program Analysis, U.S. Department of Agriculture, Washington, DC 20250, (202) 720–3257.

Dated: March 5, 2020.

**Michael Poe,**

*Legislative and Regulatory Staff.*

**The Department of Agriculture authorizes Alvin Harrod of RISC to digitally sign for our agency as USDA is not equipped to technically do digitally signing at this time. USDA acknowledges that RISC will include USDAs Preamble and Unified Agenda Entries containing a RISC digital signature in the Unified Agenda related to documents that RISC publishes on our behalf.**

**Alvin Harrod (Digital Signature)**

*Program Analyst.*

**AGRICULTURAL MARKETING SERVICE—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
1 .....	NOP; Strengthening Organic Enforcement .....	0581–AD09

**AGRICULTURAL MARKETING SERVICE—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
2 .....	Undue and Unreasonable Preferences and Advantages Under the Packers and Stockyards Act .....	0581–AD81

**AGRICULTURAL MARKETING SERVICE—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
3 .....	Establishment of a Domestic Hemp Production Program .....	0581–AD82

**ANIMAL AND PLANT HEALTH INSPECTION SERVICE—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
4 .....	National List of Reportable Animal Diseases .....	0579–AE39

**ANIMAL AND PLANT HEALTH INSPECTION SERVICE—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
5 .....	Bovine Spongiform Encephalopathy and Scrapie; Importation of Small Ruminants and Their Germplasm, Products, and Byproducts.	0579–AD10

## ANIMAL AND PLANT HEALTH INSPECTION SERVICE—FINAL RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
6 .....	Brucellosis and Bovine Tuberculosis; Update of Import Provisions .....	0579–AD65
7 .....	Removal of Emerald Ash Borer Domestic Quarantine Regulations .....	0579–AE42
8 .....	Importation, Interstate Movement, and Release Into the Environment of Certain Genetically Engineered Organisms.	0579–AE47

## ANIMAL AND PLANT HEALTH INSPECTION SERVICE—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
9 .....	Handling of Animals; Contingency Plans .....	0579–AC69
10 .....	Importation of Fresh Citrus Fruit From the Republic of South Africa Into the Continental United States .....	0579–AD95

## ANIMAL AND PLANT HEALTH INSPECTION SERVICE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
11 .....	Importation of Wood Packaging Material From Canada .....	0579–AD28
12 .....	Lacey Act Implementation Plan: De Minimis Exception .....	0579–AD44

## FOREST SERVICE—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
13 .....	Special Uses—Communications Uses Rent .....	0596–AD43

**DEPARTMENT OF AGRICULTURE (USDA)***Agricultural Marketing Service (AMS)*

## Proposed Rule Stage

**1. NOP; Strengthening Organic Enforcement***E.O. 13771 Designation:* Regulatory.*Legal Authority:* 7 U.S.C. 6501

*Abstract:* The Strengthening Organic Enforcement (SOE) rulemaking will address 2018 Farm Bill mandates. In summary, SOE will propose the following requirements that align with the Farm Bill:

- Limiting the types of operations in the organic supply chain that are not required to obtain organic certification;
- Imported organic products must be accompanied by an electronic import certificate to validate organic status;
- Import certificates will be submitted to the U.S. Customs and Border Protection's Automated Commercial Environment (ACE);
- Certifying agents must notify USDA within 90 days of the opening of any new office that conducts certification activities; and,
- Entities acting on behalf of certifying agents may be suspended when there is noncompliant activity.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	
Final Rule .....	10/00/20	

*Regulatory Flexibility Analysis**Required: Yes.*

*Agency Contact:* Jennifer Tucker, Deputy Administrator, USDA National Organic Program, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW, Washington, DC 20250, *Phone:* 202 260–8077.

*RIN:* 0581–AD09**DEPARTMENT OF AGRICULTURE (USDA)***Agricultural Marketing Service (AMS)*

## Final Rule Stage

**2. Undue and Unreasonable Preferences and Advantages Under the Packers and Stockyards Act***E.O. 13771 Designation:* Regulatory.*Legal Authority:* Pub. L. 110–234

*Abstract:* This final rule amends the regulations issued under the Packers and Stockyards Act (P&S Act) by adding new regulations that specify the criteria the Secretary could consider in determining whether conduct or action by packers, swine contractors, or live

poultry dealers constitutes an undue or unreasonable preference or advantage and a violation of the P&S Act.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/13/20	85 FR 1771
NPRM Comment Period End.	03/13/20	
Final Rule .....	08/00/20	

*Regulatory Flexibility Analysis**Required: Yes.*

*Agency Contact:* Michael V. Durando, Associate Deputy Administrator, Fair Trade Practices Program, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW, Washington, DC 20250–0237, *Phone:* 202 720–0219.

*RIN:* 0581–AD81**DEPARTMENT OF AGRICULTURE (USDA)***Agricultural Marketing Service (AMS)*

## Long-Term Actions

**3. Establishment of a Domestic Hemp Production Program***E.O. 13771 Designation:* Deregulatory.*Legal Authority:* 7 U.S.C. 1621

*Abstract:* This action will initiate a new part 990 establishing rules and regulations for the domestic production of hemp. This action is required to implement provisions of the Agriculture Improvement Act of 2018 (Farm Bill).

*Timetable:*

Action	Date	FR Cite
Interim Final Rule	10/31/19	84 FR 58522
Interim Final Rule Effective-10/31/2019 thru 11/01/2021.	10/31/19	
Comment Period Extended.	12/18/19	
Comment Period End.	01/29/20	
Final Rule .....	10/00/21	84 FR 69295

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Sonia Jimenez, Phone: 202 720-4722, Email: [sonia.jimenez@usda.gov](mailto:sonia.jimenez@usda.gov), RIN: 0581-AD82

## DEPARTMENT OF AGRICULTURE (USDA)

*Animal and Plant Health Inspection Service (APHIS)*

Proposed Rule Stage

### 4. National List of Reportable Animal Diseases

*E.O. 13771 Designation:* Other.

*Legal Authority:* 7 U.S.C. 8301 to 8317

*Abstract:* This rulemaking would amend the animal disease regulations to provide for a National List of Reportable Animal Diseases, along with animal disease reporting responsibilities, to streamline State and Federal cooperative animal disease eradication efforts. This action would enhance and consolidate current disease reporting mechanisms, and would complement and supplement existing animal disease tracking and reporting at the State level.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/02/20	85 FR 18471
NPRM Comment Period End.	06/01/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Rebecca Jones, Science, Technology, and Analysis Services, Centers for Epidemiology and Animal Health, Department of Agriculture, Animal and Plant Health Inspection Service, 2150 Centre Ave., Bldg. B, Fort Collins, CO 80526, Phone: 970 494-7196.

RIN: 0579-AE39

## DEPARTMENT OF AGRICULTURE (USDA)

*Animal and Plant Health Inspection Service (APHIS)*

Final Rule Stage

### 5. Bovine Spongiform Encephalopathy and Scrapie; Importation of Small Ruminants and Their Germplasm, Products, and Byproducts

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 7 U.S.C. 450; 7 U.S.C. 1622; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 7 U.S.C. 8301 to 8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701

*Abstract:* We are amending the regulations governing the importation of animals and animal products to revise conditions for the importation of live sheep, goats, and certain other non-bovine ruminants, and products derived from sheep and goats, with regard to transmissible spongiform encephalopathies such as bovine spongiform encephalopathy (BSE) and scrapie. We are removing BSE-related import restrictions on sheep and goats and most of their products, and adding import restrictions related to transmissible spongiform encephalopathies for certain wild, zoological, or other non-bovine ruminant species. The conditions we are adopting for the importation of specified commodities are based on internationally accepted scientific literature and will, in general, align our regulations with guidelines established in the World Organization for Animal Health's Terrestrial Animal Health Code.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/18/16	81 FR 46619
NPRM Comment Period End.	09/16/16	
Final Rule .....	09/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Alexandra MacKenzie, Veterinary Medical Officer, Animal Permitting and Negotiating Services, NIES, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 39, Riverdale, MD 20737, Phone: 301 851-3300.

RIN: 0579-AD10

### 6. Brucellosis and Bovine Tuberculosis; Update of Import Provisions

*E.O. 13771 Designation:* Other.

*Legal Authority:* 7 U.S.C. 1622; 7 U.S.C. 8301 to 8317; 15 U.S.C. 1828; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701

*Abstract:* We are amending the regulations governing the importation of cattle and bison with respect to bovine tuberculosis and brucellosis. The changes will make these requirements clearer and assure that they more effectively mitigate the risk of introduction of these diseases into the United States.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/16/15	80 FR 78461
NPRM Comment Period End.	03/15/16	81 FR 12832
NPRM Comment Period Extended.	03/11/16	
NPRM Comment Period Extended End.	05/16/16	
NPRM—Partial Withdrawal.	03/27/19	84 FR 11448
Final Rule .....	07/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Kelly Rhodes, Senior Staff Veterinarian, Regionalization Evaluation Services, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 38, Riverdale, MD 20737-1236, Phone: 301 851-3300.

RIN: 0579-AD65

### 7. Removal of Emerald Ash Borer Domestic Quarantine Regulations

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786

*Abstract:* This rulemaking will remove the domestic quarantine regulations for the plant pest emerald ash borer. This action will discontinue the domestic regulatory component of the emerald ash borer program as a means to more effectively direct available resources toward management and containment of the pest. Funding previously allocated to the implementation and enforcement of these domestic quarantine regulations will instead be directed to a non-regulatory option of research into, and deployment of, biological control agents for emerald ash borer, which will serve as the primary tool to mitigate and control the pest.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/19/18	83 FR 47310
NPRM Comment Period End.	11/19/18	
Final Rule .....	08/00/20	



*Regulatory Flexibility Analysis*  
*Required:* Yes.

*Agency Contact:* Herbert Bolton, National Policy Manager, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 26, Riverdale, MD 20737–1231, *Phone:* 301 851–3594.  
*RIN:* 0579–AE42

**8. Importation, Interstate Movement, and Release Into the Environment of Certain Genetically Engineered Organisms**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786

*Abstract:* APHIS is revising its regulations regarding the importation, interstate movement, and environmental release of certain genetically engineered organisms in order to update the regulations in response to advances in genetic engineering and APHIS' understanding of the plant health risk posed by genetically engineered organisms, thereby reducing the burden for regulated entities whose organisms pose no plant health risks.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/06/19	84 FR 26514
NPRM Comment Period End.	08/05/19	
Final Rule .....	05/18/20	85 FR 29790
Final Rule Effective.	08/17/20	

*Regulatory Flexibility Analysis*  
*Required:* Yes.

*Agency Contact:* Alan Pearson, Assistant Deputy Administrator, Biotechnology Regulatory Services, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 98, Riverdale, MD 20737–1238, *Phone:* 301 851–3944.  
*RIN:* 0579–AE47

**DEPARTMENT OF AGRICULTURE (USDA)**

*Animal and Plant Health Inspection Service (APHIS)*

Long-Term Actions

**9. Handling of Animals; Contingency Plans**

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 7 U.S.C. 2131 to 2159.

*Abstract:* This rulemaking would amend the Animal Welfare Act regulations to add requirements for contingency planning and training of

personnel by research facilities and by dealers, exhibitors, intermediate handlers, and carriers. This action would heighten the awareness of licensees and registrants regarding their responsibilities and help ensure a timely and appropriate response should an emergency or disaster occur.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/23/08	73 FR 63085
NPRM Comment Period End.	12/22/08	
NPRM Comment Period Extended.	12/19/08	73 FR 77554
NPRM Comment Period Extended End.	02/20/09	
Final Rule .....	12/31/12	77 FR 76815
Final Rule Effective.	01/30/13	
Final Rule—Stay of Regulations.	07/31/13	78 FR 46255
Final Rule Effective—Stay of Regulations.	07/31/13	
NPRM .....	To Be Determined	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Jeanie Lin, *Phone:* 919 855–7097.  
*RIN:* 0579–AC69

**10. Importation of Fresh Citrus Fruit From the Republic of South Africa Into the Continental United States**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 7 U.S.C. 450; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 21 U.S.C. 136 and 136a

*Abstract:* This rulemaking will amend the fruits and vegetables regulations to allow the importation of several varieties of fresh citrus fruit, as well as citrus hybrids, into the continental United States from areas in the Republic of South Africa where citrus black spot has been known to occur. As a condition of entry, the fruit will have to be produced in accordance with a systems approach that includes shipment traceability, packinghouse registration and procedures, and phytosanitary treatment. The fruit will also be required to be imported in commercial consignments and accompanied by a phytosanitary certificate issued by the national plant protection organization of the Republic of South Africa with an additional declaration confirming that the fruit has been produced in accordance with the systems approach. This action will allow for the importation of fresh citrus fruit, including citrus hybrids, from the Republic of South Africa while

continuing to provide protection against the introduction of plant pests into the United States.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/28/14	79 FR 51273
NPRM Comment Period End.	10/27/14	
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Tony Román, *Phone:* 301 851–2242.  
*RIN:* 0579–AD95

**DEPARTMENT OF AGRICULTURE (USDA)**

*Animal and Plant Health Inspection Service (APHIS)*

Completed Actions

**11. Importation of Wood Packaging Material From Canada**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 7 U.S.C. 450; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 21 U.S.C. 136 and 136a

*Abstract:* This rulemaking would have amended the regulations for the importation of unmanufactured wood articles with regard to the exemption that allows wood packaging material from Canada to enter the United States without first meeting the treatment and marking requirements of the regulations that apply to wood packaging material from all other countries. We are withdrawing the action because of the age of the supporting materials that informed the proposed rule.

*Completed:*

Reason	Date	FR Cite
Withdrawn .....	05/01/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* John Tyrone Jones, *Phone:* 301 851–2344  
*RIN:* 0579–AD28

**12. Lacey Act Implementation Plan: De Minimis Exception**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 16 U.S.C. 3371 *et seq.*

*Abstract:* The Food, Conservation, and Energy Act of 2008 amended the Lacey Act to provide, among other things, that importers submit a declaration at the time of importation for certain plants and plant products. The declaration requirement of the Lacey Act became effective on

December 15, 2008, and enforcement of that requirement is being phased in. We are amending the regulations to establish an exception to the declaration requirement for products containing a minimal amount of plant materials. This action would relieve the burden on importers while continuing to ensure that the declaration requirement fulfills the purposes of the Lacey Act.  
*Completed:*

Reason	Date	FR Cite
Final Rule ..... Final Action Effective.	03/02/20 04/01/20	85 FR 12207

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Dorothy Wayson,  
*Phone:* 301 851–2036.  
*RIN:* 0579–AD44

**DEPARTMENT OF AGRICULTURE (USDA)**

*Forest Service (FS)*

Long-Term Actions

**13. Special Uses—Communications Uses Rent**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 43 U.S.C. 1761 to 1771

*Abstract:* Consistent with the requirement in title V, section 504 (g) of the Federal Land Policy and Management Act, the proposed rule would update the Forest Service’s rental

fee schedule for communications uses based on market value. Updated rental fees that exceed 100 percent of current rental fees would be phased in over a 3-year period.  
*Timetable:*

Action	Date	FR Cite
NPRM .....	To Be Determined	

*Regulatory Flexibility Analysis Required: Yes.*  
*Agency Contact:* Edwina Howard-Agu, *Phone:* 202 205–1419, *Email:* ehowardagu@fs.fed.us.  
*RIN:* 0596–AD43

[FR Doc. 2020–17333 Filed 8–25–20; 8:45 am]  
**BILLING CODE 6820–14–P**



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part IV

Department of Commerce

---

Semiannual Regulatory Agenda

**DEPARTMENT OF COMMERCE****Office of the Secretary****13 CFR Ch. III****15 CFR Subtitle A; Subtitle B, Chs. I, II, III, VII, VIII, IX, and XI****19 CFR Ch. III****37 CFR Chs. I, IV, and V****48 CFR Ch. 13****50 CFR Chs. II, III, IV, and VI****Spring 2020 Semiannual Agenda of Regulations**

**AGENCY:** Office of the Secretary, Commerce.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** In compliance with Executive Order 12866, entitled “Regulatory Planning and Review,” and the Regulatory Flexibility Act, as amended, the Department of Commerce (Commerce), in the spring and fall of each year, publishes in the **Federal Register** an agenda of regulations under development or review over the next 12 months. Rulemaking actions are grouped according to pre-rulemaking, proposed rules, final rules, long-term actions, and rulemaking actions completed since the fall 2019 agenda. The purpose of the Agenda is to provide information to the public on regulations that are currently under review, being proposed, or issued by Commerce. The agenda is intended to facilitate comments and views by interested members of the public.

Commerce’s spring 2020 regulatory agenda includes regulatory activities that are expected to be conducted during the period May 1, 2020, through April 30, 2021.

**FOR FURTHER INFORMATION CONTACT:**

*Specific:* For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

*General:* Comments or inquiries of a general nature about the agenda should be directed to Asha Mathew, Chief Counsel for Regulation, Office of the Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230, telephone: 202–482–3151.

**SUPPLEMENTARY INFORMATION:** Commerce hereby publishes its spring 2020 Unified Agenda of Federal Regulatory and

Deregulatory Actions pursuant to Executive Order 12866 and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Executive Order 12866 requires agencies to publish an agenda of those regulations that are under consideration pursuant to this order. By memorandum of January 16, 2020, the Office of Management and Budget issued guidelines and procedures for the preparation and publication of the spring 2020 Unified Agenda. The Regulatory Flexibility Act requires agencies to publish, in the spring and fall of each year, a regulatory flexibility agenda that contains a brief description of the subject of any rule likely to have a significant economic impact on a substantial number of small entities.

Beginning with the fall 2007 edition, the internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda is available online at [www.reginfo.gov](http://www.reginfo.gov), in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act, Commerce’s printed agenda entries include only:

(1) Rules that are in the Agency’s regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act’s Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the internet. In addition, for fall editions of the Agenda, Commerce’s entire Regulatory Plan will continue to be printed in the **Federal Register**.

Within Commerce, the Office of the Secretary and various operating units may issue regulations. Among these operating units, the National Oceanic and Atmospheric Administration (NOAA), the Bureau of Industry and Security, and the Patent and Trademark Office issue the greatest share of Commerce’s regulations.

A large number of regulatory actions reported in the Agenda deal with fishery management programs of NOAA’s National Marine Fisheries Service

(NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of NMFS’ programs, an “Explanation of Information Contained in NMFS Regulatory Entries” is provided below.

**Explanation of Information Contained in NMFS Regulatory Entries**

The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (the Act) governs the management of fisheries within the Exclusive Economic Zone of the United States (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance of 200 nautical miles. For fisheries that require conservation and management measures, eight Regional Fishery Management Councils (Councils) prepare and submit to NMFS Fishery Management Plans (FMPs) for the fisheries within their respective areas in the EEZ. The Councils are required by law to conduct public hearings on the development of FMPs and FMP amendments. Consistent with applicable law, environmental and other analyses are developed that consider alternatives to proposed actions.

Pursuant to the Magnuson-Stevens Act, the Councils also submit to NMFS proposed regulations they deem necessary or appropriate to implement FMPs. The proposed regulations, FMPs, and FMP amendments are subject to review and approval by NMFS, based on consistency with the Magnuson-Stevens Act and other applicable law. The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the significance and timing of some regulatory actions under consideration by the Councils at the time the semiannual regulatory agenda is published.

Commerce’s spring 2020 regulatory agenda follows.

**Michael Walsh,**

*Chief of Staff, Performing the Delegated Duties of the General Counsel.*

Department of Commerce authorizes LaTonya Datcher of RISC to digitally sign for our agency as the relevant signer at DOC is not equipped to technically do digital signing at this time. DOC acknowledges that RISC will include DOC’s Preamble and Unified Agenda Entries containing a RISC digital signature in the Unified Agenda related to documents that RISC publishes on our behalf.

**LaTonya Datcher (Digital Signature)**

*Program Analyst.*

## INTERNATIONAL TRADE ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
14 .....	Modifications to Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws.	0625–AB10

## BUREAU OF INDUSTRY AND SECURITY—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
15 .....	Expansion of Export, Reexport, and Transfer (In-Country) Controls for Military End Use or Military End Users in the People's Republic of China (China), Russia, or Venezuela.	0694–AH53

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
16 .....	Comprehensive Fishery Management Plan for Puerto Rico .....	0648–BD32
17 .....	International Fisheries; South Pacific Tuna Fisheries; Implementation of Amendments to the South Pacific Tuna Treaty.	0648–BG04
18 .....	Illegal, Unregulated, and Unreported Fishing; Fisheries Enforcement; High Seas Driftnet Fishing Moratorium Protection Act.	0648–BG11
19 .....	International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Requirements to Safeguard Fishery Observers.	0648–BG66
20 .....	Regulatory Amendment to the Pacific Coast Groundfish Fishery Management Plan to Implement an Electronic Monitoring Program for Bottom Trawl and Non-Whiting Midwater Trawl Vessels.	0648–BH70
21 .....	Amendment 21 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan .....	0648–BJ18
22 .....	Establish National Insurance Requirements for Observer Providers .....	0648–BJ33
23 .....	Bering Sea and Aleutian Islands Pacific Cod Pot Catcher/Processor License Limitation Program Adjustment.	0648–BJ42
24 .....	Amendment 121 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and Amendment 110 to the Fishery Management Plan for Groundfish of the Gulf of Alaska.	0648–BJ49
25 .....	Salmon Bycatch Minimization in the Pacific Coast Groundfish Fishery .....	0648–BJ50
26 .....	Modification of Multi-Day Trip Possession Limits for Federally-Permitted Charter/Headboat Vessels in the Fishery Management Plans (FMP) in the Gulf of Mexico.	0648–BJ60
27 .....	Designation of Critical Habitat for the Arctic Ringed Seal .....	0648–BC56
28 .....	Amendment and Updates to the Pelagic Longline Take Reduction Plan .....	0648–BF90
29 .....	Designation of Critical Habitat for the Threatened Caribbean Corals .....	0648–BG26
30 .....	Atlantic Large Whale Take Reduction Plan Modifications to Reduce Serious Injury and Mortality of Large Whales in Commercial Trap/Pot Fisheries Along the U.S. East Coast.	0648–BJ09

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
31 .....	Commerce Trusted Trader Program .....	0648–BG51
32 .....	Rule to Implement the For-Hire Reporting Amendments .....	0648–BG75
33 .....	New England Industry-Funded Monitoring Amendment .....	0648–BG91
34 .....	Area of Overlap Between the Convention Areas of the Inter-American Tropical Tuna Commission and the Western and Central Pacific Fisheries Commission.	0648–BH59
35 .....	Omnibus Deep-Sea Coral Amendment .....	0648–BH67
36 .....	Generic Amendment to the Fishery Management Plans for the Reef Fish Resources of the Gulf of Mexico and Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region.	0648–BH72
37 .....	Magnuson-Stevens Fisheries Conservation and Management Act; Traceability Information Program for Seafood.	0648–BH87
38 .....	Vessel Movement, Monitoring, and Declaration Management Enhancement for the Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan.	0648–BI45
39 .....	Framework Adjustment 59 to the Northeast Multispecies Fishery Management Plan .....	0648–BJ12
40 .....	Vessel Monitoring Systems; Amendment to Type-Approval Requirements .....	0648–BJ15
41 .....	Regulatory Amendment to Adjust the North Pacific Observer Program Partial Coverage Fee .....	0648–BJ40
42 .....	Reducing Disturbances to Hawaiian Spinner Dolphins From Human Interactions .....	0648–AU02
43 .....	Taking and Importing Marine Mammals: Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico.	0648–BB38
44 .....	Revision to Critical Habitat Designation for Endangered Southern Resident Killer Whales .....	0648–BH95
45 .....	Designation of Critical Habitat for the Mexico, Central American, and Western Pacific Distinct Population Segments of Humpback Whales Under the Endangered Species Act.	0648–BI06
46 .....	Wisconsin-Lake Michigan National Marine Sanctuary Designation .....	0648–BG01

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
47 .....	Implementation of a Program for Transshipments by Large Scale Fishing Vessels in the Eastern Pacific Ocean.	0648–BD59
48 .....	International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Treatment of U.S. Purse Seine Fishing With Respect to U.S. Territories.	0648–BF41

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
49 .....	Comprehensive Fishery Management Plan for St. Croix .....	0648–BD33
50 .....	Comprehensive Fishery Management Plan for St. Thomas/St. John .....	0648–BD34
51 .....	Jonah Crab Fishery; Interstate Fishery Management Plan for Jonah Crab .....	0648–BF43
52 .....	Vision Blueprint Commercial Regulatory Amendment 27 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region.	0648–BI32
53 .....	Amendment 21–4 to the Pacific Coast Groundfish Fishery Management Plan: Trawl Catch Share Program 5-Year Review Follow-On Actions.	0648–BI35
54 .....	Framework Adjustment 13 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan .....	0648–BI49
55 .....	Atlantic Highly Migratory Species; Pelagic Longline Bluefin Tuna Area-Based and Weak Hook Management.	0648–BI51
56 .....	Reduce Gulf of Mexico Red Grouper Annual Catch Limits and Annual Catch Targets .....	0648–BI63
57 .....	Amendment 118 to Allow Halibut Retention in BSAI IFQ Pot Gear in the Fishery Management Plan for Groundfish of the BSAI.	0648–BI65
58 .....	Interim 2019 Tribal Pacific Whiting Allocation and Require Consideration of Chinook Salmon Bycatch Before Reapportioning Tribal Whiting; Pacific Coast Groundfish.	0648–BI67
59 .....	Requirements to Safeguard Fishery Observers in the Eastern Pacific Ocean .....	0648–BI86
60 .....	Framework Action to Reduce Gulf of Mexico Red Grouper Annual Catch Limits and Annual Catch Targets to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico.	0648–BI95
61 .....	Amendment 18 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, U.S. Waters.	0648–BI96
62 .....	Revisions to the Seabird Avoidance Program for the Pacific Coast Groundfish Fishery Management Plan	0648–BI99
63 .....	Amendment 120 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and Amendment 108 to the Fishery Management Plan.	0648–BJ02
64 .....	Framework Adjustment 6 and 2019–2021 Atlantic Herring Fishery Specifications .....	0648–BJ13
65 .....	Framework Action to the Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico; Modification to the Recreational For-Hire Red Snapper Annual Catch Target (ACT) Buffer.	0648–BJ28
66 .....	Framework Adjustment 32 to the Atlantic Sea Scallop Fishery Management Plan .....	0648–BJ51
67 .....	Regulation to Reduce Incidental Bycatch and Mortality of Sea Turtles in the Southeastern U.S. Shrimp Fisheries.	0648–BG45

## PATENT AND TRADEMARK OFFICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
68 .....	Trademark Fee Adjustment .....	0651–AD42

## PATENT AND TRADEMARK OFFICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
69 .....	Setting and Adjusting Patent Fees During Fiscal Year 2020 .....	0651–AD31

## DEPARTMENT OF COMMERCE (DOC)

International Trade Administration  
(ITA)

## Proposed Rule Stage

## 14. Modifications to Regulations To Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws

E.O. 13771 Designation: Other.

*Legal Authority:* 19 U.S.C. 1671 *et seq.*; Pub. L. 114–125, sec. 421*Abstract:* Pursuant to its authority under Title VII of the Tariff Act of 1930, as amended (the Act), the Department of Commerce (Commerce) proposes to modify its regulations under Part 351 of Title 19 to improve administration and enforcement of the antidumping duty (AD) and countervailing duty (CVD) laws. Specifically, Commerce proposes

to modify its regulation concerning the time for submission of comments pertaining to industry support in AD and CVD proceedings; to modify its regulation regarding new shipper reviews; to modify its regulation concerning scope matters in AD and CVD proceedings; to promulgate a new regulation concerning circumvention of AD and CVD orders; to promulgate a new regulation concerning covered

merchandise referrals received from U.S. Customs and Border Protection (CBP); to promulgate a new regulation pertaining to Commerce requests for certifications from interested parties to establish whether merchandise is subject to an AD or CVD order; and to modify its regulation regarding importer reimbursement certifications filed with CBP. Finally, Commerce proposes to modify its regulations regarding letters of appearance in AD and CVD proceedings and importer filing requirements for access to business proprietary information. Commerce is seeking public comments on this proposed rule.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Jessica Link, Department of Commerce, International Trade Administration, 1401 Constitution Avenue NW, Washington, DC 20230, *Phone:* 202 482–1411, *Email:* [jessica.link@trade.gov](mailto:jessica.link@trade.gov), *RIN:* 0625–AB10

## DEPARTMENT OF COMMERCE (DOC)

### Bureau of Industry and Security (BIS)

#### Completed Actions

#### 15. Expansion of Export, Reexport, and Transfer (In-Country) Controls for Military End Use or Military End Users in the People's Republic of China (China), Russia, or Venezuela

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 15 U.S.C. 1824a; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; 30 U.S.C. 185(s); 30 U.S.C. 185(u); 42 U.S.C. 2139a; 43 U.S.C. 1354; 50 U.S.C. 1701 *et seq.*; 50 U.S.C. 4305; 50 U.S.C. 4601 *et seq.*; E.O. 12058; E.O. 12851; E.O. 12938; E.O. 12947; E.O. 13026; E.O. 13099; E.O. 13222; E.O. 13224; Pub. L. 108–11

*Abstract:* The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) to expand license requirements on exports, reexports, and transfers (in-country) of items intended for military end use or military end users in the People's Republic of China (China), Russia, or Venezuela. Specifically, this rule expands the licensing requirements for China to include “military end users,” in addition to “military end use.” It broadens the items for which the

licensing requirements and review policy apply and expand the definition of “military end use.” Next, it creates a new reason for control and associated review policy for regional stability for certain items to China, Russia, or Venezuela, moving existing text related to this policy. Finally, it adds Electronic Export Information filing requirements in the Automated Export System for exports to China, Russia, and Venezuela.

*Timetable:*

Action	Date	FR Cite
Final Rule .....	04/28/20	85 FR 23459
Final Rule; Correction.	06/03/20	85 FR 34306
Final Rule Effective.	06/29/20	
Final Rule; Correction Effective.	06/29/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Hillary Hess, Director, Regulatory Policy Division, Department of Commerce, Bureau of Industry and Security, 14th Street and Pennsylvania Avenue NW, Washington, DC 20230, *Phone:* 202 482–2440, *Fax:* 202 482–3355, *Email:* [hillary.hess@bis.doc.gov](mailto:hillary.hess@bis.doc.gov), *RIN:* 0694–AH53

## DEPARTMENT OF COMMERCE (DOC)

### National Oceanic and Atmospheric Administration (NOAA)

#### Proposed Rule Stage

#### National Marine Fisheries Service

#### 16. Comprehensive Fishery Management Plan for Puerto Rico

*E.O. 13771 Designation:* Not subject to, not significant.  
*Legal Authority:* 16 U.S.C. 1801 *et seq.*  
*Abstract:* In response to a recommendation of the Caribbean Fishery Management Council, this action would establish three new FMPs (Puerto Rico FMP, St. Thomas/St. John FMP and St. Croix FMP) and repeal and replace the existing U.S. Caribbean-wide FMPs (the FMP for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (USVI), the FMP for the Spiny Lobster Fishery of Puerto Rico and the USVI, the FMP for Queen Conch Resources of Puerto Rico and the USVI, and the FMP for the Corals and Reef Associated Plants and Invertebrates of Puerto Rico and the USVI). For each of the Puerto Rico, St. Thomas/St. John, and St. Croix FMPs, the action would also modify the composition of the stocks to be managed; organize those

stocks for effective management; establish status determination criteria, management reference points, and accountability measures for managed stocks; identify essential fish habitat for stocks new to management; and establish framework measures.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email:* [roy.crabtree@noaa.gov](mailto:roy.crabtree@noaa.gov), *RIN:* 0648–BD32

#### 17. International Fisheries; South Pacific Tuna Fisheries; Implementation of Amendments to the South Pacific Tuna Treaty

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 973 *et seq.*

*Abstract:* Under authority of the South Pacific Tuna Act of 1988, this rule would implement recent amendments to the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America (also known as the South Pacific Tuna Treaty). The rule would include modification to the procedures used to request licenses for U.S. vessels in the western and central Pacific Ocean purse seine fishery, including changing the annual licensing period from June-to-June to the calendar year, and modifications to existing reporting requirements for purse seine vessels fishing in the western and central Pacific Ocean. The rule would implement only those aspects of the Treaty amendments that can be implemented under the existing South Pacific Tuna Act.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Michael Tosatto, Regional Administrator, Pacific Islands Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1845 Wasp Boulevard, Building 176, Honolulu, HI 96818,

Phone: 808 725-5000, Email:  
 michael.tosatto@noaa.gov.  
 RIN: 0648-BG04

**18. Illegal, Unregulated, and Unreported Fishing; Fisheries Enforcement; High Seas Driftnet Fishing Moratorium Protection Act**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* Pub. L. 114-81  
*Abstract:* This proposed rule will make conforming amendments to regulations implementing the various statutes amended by the Illegal, Unreported and Unregulated Fishing Enforcement Act of 2015 (Pub. L. 114-81). The Act amends several regional fishery management organization implementing statutes as well as the High Seas Driftnet Fishing Moratorium Protection Act. It also provides authority to implement two new international agreements under the Antigua Convention, which amends the Convention for the establishment of an Inter-American Tropical Tuna Commission, and the United Nations Food and Agriculture Organization Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing (Port State Measures Agreement), which restricts the entry into U.S. ports by foreign fishing vessels that are known to be or are suspected of engaging in illegal, unreported, and unregulated fishing. This proposed rule will also implement the Port State Measures Agreement. To that end, this proposed rule will require the collection of certain information from foreign fishing vessels requesting permission to use U.S. ports. It also includes procedures to designate and publicize the ports to which foreign fishing vessels may seek entry and procedures for conducting inspections of these foreign vessels accessing U.S. ports. Further, the rule establishes procedures for notification of: The denial of port entry or port services for a foreign vessel, the withdrawal of the denial of port services if applicable, the taking of enforcement action with respect to a foreign vessel, or the results of any inspection of a foreign vessel to the flag nation of the vessel and other competent authorities as appropriate.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Alexa Cole, Director, Office of International Affairs and Seafood Inspection, Department of Commerce, National Oceanic and

Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8286, Email: alexa.cole@noaa.gov.  
 RIN: 0648-BG11

**19. International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Requirements To Safeguard Fishery Observers**

*E.O. 13771 Designation:* Not subject to, not significant.  
*Legal Authority:* 16 U.S.C. 6901 *et seq.*  
*Abstract:* This rule would establish requirements to enhance the safety of fishery observers on highly migratory species fishing vessels. This rule would be issued under the authority of the Western and Central Pacific Fisheries Convention Implementation Act, and pursuant to decisions made by the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. This action is necessary for the United States to satisfy its obligations under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, to which it is a Contracting Party.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael Tosatto, Regional Administrator, Pacific Islands Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1845 Wasp Boulevard, Building 176, Honolulu, HI 96818, Phone: 808 725-5000, Email: michael.tosatto@noaa.gov.  
 RIN: 0648-BG66

**20. Regulatory Amendment to the Pacific Coast Groundfish Fishery Management Plan To Implement an Electronic Monitoring Program for Bottom Trawl and Non-Whiting Midwater Trawl Vessels**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 16 U.S.C. 1801 *et seq.*  
*Abstract:* The proposed action would implement a regulatory amendment to the Pacific Fishery Management Council's Pacific Coast Groundfish Fishery Management Plan to allow bottom trawl and midwater trawl vessels targeting non-whiting species the option to use electronic monitoring (video cameras and associated sensors) in place of observers to meet requirements for 100-percent observer coverage. By allowing vessels the option

to use electronic monitoring to meet monitoring requirements, this action is intended to increase operational flexibility and reduce monitoring costs for the fleet.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Barry Thom, Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232, Phone: 503 231-6266, Email: barry.thom@noaa.gov.  
 RIN: 0648-BH70

**21. Amendment 21 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan**

*E.O. 13771 Designation:* Not subject to, not significant.  
*Legal Authority:* 16 U.S.C. 1801 *et seq.*  
*Abstract:* This rulemaking action proposes measures recommended by the Mid-Atlantic Fishery Management Council and Atlantic States Marine Fisheries Commission that would adjust the current state-by-state commercial quota allocations in the summer flounder fishery and update the goals and objective for summer flounder fishery management in the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). The revised quota allocation would maintain the current state-by-state allocation percentages when distributing the annual coastwide quota up to 9.55 million pounds. In years when the coastwide quota is above 9.55 million pounds, additional quota beyond this trigger would be distributed in equal shares to all states except Maine, Delaware, and New Hampshire (*i.e.*, states with very little directed fishing effort), which would split one percent of the additional quota. The current state-by-state quota allocations have not been adjusted since originally implemented in 1993. The intent of this amendment is to modify the allocations to respond to changes in summer flounder distribution while also recognizing the states' historical reliance on summer flounder. The Council and Board intend to review the adjusted quota allocations again in no more than 10 years.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	



*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Michael Pentony, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281-9283, *Fax:* 978 281-9207, *Email:* michael.pentony@noaa.gov.  
*RIN:* 0648-BJ18

**22. • Establish National Insurance Requirements for Observer Providers***E.O. 13771 Designation:* Other.*Legal Authority:* 16 U.S.C. 1855(d)

*Abstract:* NMFS is proposing to establish uniform, nationally applicable minimum insurance requirements for companies that provide observer or at-sea monitor services for federally managed fisheries subject to monitoring requirements. This action would supersede outdated or inappropriate regulatory insurance requirements thereby easing the regulatory and cost burden for observer/at-sea monitor providers. Additionally, this action would mitigate potential liability risks associated with observer and at-sea monitor deployments for vessel owners and shore side processors that are subject to monitoring requirements.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* David Detlor, Acting Director, Office of Science and Technology, National Marine Fisheries Service, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 12450, Silver Spring, MD 20910, *Phone:* 301 427-8100, *Email:* david.detlor@noaa.gov.  
*RIN:* 0648-BJ33

**23. • Bering Sea and Aleutian Islands Pacific Cod Pot Catcher/Processor License Limitation Program Adjustment**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* In response to a recommendation by the North Pacific Fishery Management Council (Council), this action announces the establishment of a control date for the Bering Sea and Aleutian Islands (BSAI) Pacific cod pot catcher/processor sector. Currently, pot catcher/processor vessels fishing for Pacific cod in the BSAI are required to have a License Limitation Program (LLP) that is endorsed for fishing Pacific

cod by gear type, operational type, and area. The Council is evaluating participation and effort in the BSAI Pacific cod catcher/processor fishery in response to a potential need to control entry and participation in the Pacific cod pot catcher/processor sector. Specifically, the Council is considering options to address and potentially eliminate latent Bering Sea pot catcher/processor endorsed LLPs (which are LLP endorsements not recently utilized) in order to increase stability for Pacific cod-dependent pot catcher/processors, maintain consistently low rates of halibut and crab bycatch, and ensure that condensed fishing seasons do not result in safety-at-sea concerns. The Council may use the control date if it decides to recommend removing latent BSAI Pacific cod endorsements on pot catcher/processor LLPs to limit participation in the sector. Any fishing activity after the control date would not be assured to be considered should the Council recommend and NMFS implement a regulatory amendment to remove latent LLP endorsements. This announcement is intended, in part, to promote awareness of the potential eligibility criteria for future access to discourage speculative entry into the BSAI Pacific cod sector while the Council and NMFS consider whether and how access to the sector should be further controlled.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	12/10/19	84 FR 67421
ANPRM Comment Period End.	12/10/19	
NPRM .....	04/00/21	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* James Balsiger, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586-7221, *Fax:* 907 586-7465, *Email:* jim.balsiger@noaa.gov.  
*RIN:* 0648-BJ42

**24. • Amendment 121 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and Amendment 110 to the Fishery Management Plan for Groundfish of the Gulf of Alaska***E.O. 13771 Designation:* Derogatory.*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This action proposes to implement the North Pacific Fishery Management Council's Amendments to the Bering Sea/Aleutian Islands

(Amendment 121) and Gulf of Alaska (Amendment 110) Groundfish Fishery Management Plans (FMPs). These Amendments would move sculpins into the Ecosystem Component of the FMPs, which is a category of non-target species that are not in need of conservation and management. Magnuson-Stevens Act National Standard guidelines include options to identify non-target species in FMPs (species caught incidentally during the pursuit of target stocks in a fishery) that do not require conservation and management as ecosystem component species. As an Ecosystem Component, this action proposes that catch specifications for sculpins (Overfishing Level, Acceptable Biological Catch, Total Allowable Catch) would no longer be required, but instead, regulations would prohibit directed fishing for sculpins, require recordkeeping and reporting to monitor and report catch of sculpins annually, and establish a sculpins maximum retainable amount when directed fishing for groundfish species at 20 percent to discourage retention while allowing flexibility to prosecute groundfish fisheries. This proposed action would free up approximately 5,000 metric tons (mt) of total allowable catch (TAC) under the 2 million mt optimum yield limit for the Bering Sea/Aleutian Islands management area. This TAC could be allocated to any groundfish target species during the annual harvest specifications process, thereby allowing for some flexibility with allocations.

*Timetable:*

Action	Date	FR Cite
Notice of Availability.	03/23/20	85 FR 13610
NPRM .....	04/23/20	85 FR 22703
NPRM Comment Period End.	05/23/20	
Final Action .....	08/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* James Balsiger, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586-7221, *Fax:* 907 586-7465, *Email:* jim.balsiger@noaa.gov.  
*RIN:* 0648-BJ49

**25. • Salmon Bycatch Minimization in the Pacific Coast Groundfish Fishery**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* The proposed action would implement salmon bycatch minimization measures in the Pacific

Coast groundfish fishery to comply with the terms and conditions of a December 2017 biological opinion on Endangered Species Act-listed salmon interactions in the groundfish fishery. The proposed action would establish additional management tools (e.g., area-based closures and gear restrictions) the Council and NMFS could use as needed to keep fishery sectors within Chinook and coho salmon bycatch guidelines as established in a prior rulemaking. The proposed action would establish the rules or circumstances under which the fishery sectors would be allowed to access an established salmon bycatch Reserve. Under the proposed action, NMFS is required to take an action before fishery participants can access the Reserve; such action may include implementation of a measure such as an area-based closure or gear restriction, or approval of a plan outlining how a whiting cooperative will minimize its salmon bycatch. Finally, the proposed action would change the bycatch levels at which the trawl fishery would be closed in order to preserve 500 Chinook salmon as bycatch so that the recreational and fixed gear fisheries could continue operating in years of high trawl fishery bycatch.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Barry Thom, Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232, *Phone:* 503 231-6266, *Email:* barry.thom@noaa.gov.

*RIN:* 0648-BJ50

**26. • Modification of Multi-Day Trip Possession Limits for Federally-Permitted Charter/Headboat Vessels in the Fishery Management Plans (FMP) in the Gulf of Mexico**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This rule would promote efficiency in the utilization of the reef fish and CMP resources and a potential decrease in regulatory discards by providing the owners and operators of federally permitted for-hire vessels greater flexibility in determining when to allow passengers to retain the possession limit on multi-day trips. The rule would modify the on-board possession limit for federal for-hire trips

in the Gulf of Mexico, which currently allows anglers to retain two daily bag limits on a trip more than 24 hours, after the first 24 hours of that trip. The rule would increase the required trip duration to more than 30 hours, but would allow anglers to retain the second daily bag limit at any time after the federal for-hire vessel leaves the dock. All other requirements to retain the possession limit would be unchanged. In addition, this rule would modify the language in 622.21(a)(3)(iii) and 622.22(a)(3)(iii). The change would remove the wording 'sequentially coded' from the sentence 'NMFS will provide each Individual Fishing Quota (IFQ) dealer the necessary paper forms, sequentially coded, and instructions for submission of the forms to the RA'.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824-5305, *Fax:* 727 824-5308, *Email:* roy.crabtree@noaa.gov.

*RIN:* 0648-BJ60

**27. Designation of Critical Habitat for the Arctic Ringed Seal**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 16 U.S.C. 1531 *et seq.*

*Abstract:* The National Marine Fisheries Service published a final rule to list the Arctic ringed seal as a threatened species under the Endangered Species Act (ESA) in December 2012. The ESA requires designation of critical habitat at the time a species is listed as threatened or endangered, or within one year of listing if critical habitat is not then determinable. This rulemaking would designate critical habitat for the Arctic ringed seal. The critical habitat designation would be in the northern Bering, Chukchi, and Beaufort seas within the current range of the species.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/03/14	79 FR 71714
Proposed Rule ....	12/09/14	79 FR 73010
Notice of Public Hearings.	01/13/15	80 FR 1618
Comment Period Extended.	02/02/15	80 FR 5498
Proposed Rule 2	09/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427-8400.

*RIN:* 0648-BC56

**28. Amendment and Updates to the Pelagic Longline Take Reduction Plan**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1361 *et seq.*

*Abstract:* Serious injury and mortality of the Western North Atlantic short-finned pilot whale stock incidental to the Category I Atlantic pelagic longline fishery continues at levels exceeding their Potential Biological Removal. This proposed action will examine a number of management measures to amend the Pelagic Longline Take Reduction Plan to reduce the incidental mortality and serious injury of short-finned pilot whales taken in the Atlantic Pelagic Longline fishery to below Potential Biological Removal. Potential management measures may include changes to the current limitations on mainline length, new requirements to use weak hooks (hooks with reduced breaking strength), and non-regulatory measures related to determining the best procedures for safe handling and release of marine mammals. The need for the proposed action is to ensure the Pelagic Longline Take Reduction Plan meets its Marine Mammal Protection Act mandated short- and long-term goals.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427-8400.

*RIN:* 0648-BF90

**29. Designation of Critical Habitat for the Threatened Caribbean Corals**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 16 U.S.C. 1531 *et seq.*

*Abstract:* NMFS listed 5 Caribbean corals as threatened under the Endangered Species Act on October 10, 2014. Critical habitat shall be designated

to the maximum extent prudent and determinable at the time a species is proposed for listing (50 CFR 424.12). We concluded that critical habitat was not determinable for the 5 corals at the time of listing. However, we anticipated that critical habitat would be determinable in the future given on-going research. We, therefore, announced in the final listing rules that we would propose critical habitat in separate rulemakings. This rule proposes to designate critical habitat for the 5 Caribbean coral species listed in 2014. A separate proposed critical habitat rule is being prepared for the 15 Indo-Pacific corals listed as threatened in 2014. The proposed designation for the Caribbean corals may include marine waters in Florida, Puerto Rico, US Virgin Islands, Navassa Island, and Flower Garden Banks containing essential features that support all stages of life history of the corals. The proposed rule is not likely to have an annual effect on the economy of \$100 million or more or adversely affect the economy. NMFS has contacted the Departments of the Navy, Air Force, and Army as well as the U.S. Coast Guard requesting information related to potential national security impacts that may result from the critical habitat designation. Based on information provided, we concluded that there will be an impact on national security in only 1 area offshore Dania Beach, FL, and will propose to exclude it from the designations.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8400.  
RIN: 0648-BG26

**30. Atlantic Large Whale Take Reduction Plan Modifications To Reduce Serious Injury and Mortality of Large Whales in Commercial Trap/Pot Fisheries Along the U.S. East Coast**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 16 U.S.C. 1387 *et seq.*  
*Abstract:* In response to recent recommendations from the Atlantic Large Whale Take Reduction Team (TRT) to reduce the risk of North Atlantic right whale entanglement in commercial trap/pot fisheries along the

U.S. East Coast, the National Marine Fisheries Service (NMFS) intends to propose regulations to amend the Atlantic Large Whale Take Reduction Plan (Plan). In April 2019, the TRT recommended that state and Federal East Coast fisheries reduce vertical lines through gear reconfigurations and potential lobster trap allocation caps, as well as modify fishing gear to reduce the breaking strength of rope. The TRT also recommended additional buoy line marking and additions or modifications to areas that are already closed to trap/pot fishing. The state government members of the TRT are collaborating with the TRT's industry representatives to scope and develop the appropriate management measures to achieve the TRT's recommendations for fisheries operating in state waters. Based on what state measures are developed, this rulemaking action would propose comparable management measures for fisheries operating in Federal waters.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8400.  
RIN: 0648-BJ09

**DEPARTMENT OF COMMERCE (DOC)**

*National Oceanic and Atmospheric Administration (NOAA)*

Final Rule Stage

**National Marine Fisheries Service**

**31. Commerce Trusted Trader Program**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 16 U.S.C. 1801 *et seq.*  
*Abstract:* This rule will establish a voluntary Commerce Trusted Trader Program for importers, aiming to provide benefits such as reduced targeting and inspections and enhanced streamlined entry into the United States for certified importers. Specifically, this rule would establish the criteria required of a Commerce Trusted Trader, and identify specifically how the program will be monitored and by whom. It will require that a Commerce Trusted Trader establish a secure supply chain and maintain the records

necessary to verify the legality of all designated product entering into U.S. commerce, but will excuse the Commerce Trusted Trader from entering that data into the International Trade Data System prior to entry, as required by Seafood Import Monitoring Program (finalized on December 9, 2016). The rule will identify the benefits available to a Commerce Trusted Trader, detail the application process, and specify how the Commerce Trusted Trader will be audited by third-party entities while the overall program will be monitored by the National Marine Fisheries Service.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/17/18	83 FR 2412
NPRM Comment Period End.	03/19/18	
Withdrawal .....	06/00/20	

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Alexa Cole, Director, Office of International Affairs and Seafood Inspection, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8286, Email: alexa.cole@noaa.gov.  
RIN: 0648-BG51

**32. Rule To Implement the For-Hire Reporting Amendments**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This rule proposes to implement Amendment 39 for the Snapper-Grouper Fishery of the South Atlantic Region, Amendment 9 for the Dolphin and Wahoo Fishery of the Atlantic, and Amendment 27 to the Coastal Migratory Pelagics Fishery of the Gulf of Mexico and Atlantic Regions (For-Hire Reporting Amendments). The For-Hire Reporting Amendments rule proposes mandatory weekly electronic reporting for charter vessel operators with a Federal for-hire permit in the snapper-grouper, dolphin wahoo, or coastal migratory pelagics fisheries; reduces the time allowed for headboat operators to complete their electronic reports; and requires location reporting by charter vessels with the same level of detail currently required for headboat vessels.

*Timetable:*

Action	Date	FR Cite
Notice of Availability.	03/14/18	83 FR 11164
NPRM .....	04/04/18	83 FR 14400

Action	Date	FR Cite
NPRM Comment Period End.	05/04/18	85 FR 10331
Final Action .....	02/24/20	
Final Rule .....	07/00/20	
Final Action Effective.	09/01/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824-5305, *Fax:* 727 824-5308, *Email:* roy.crabtree@noaa.gov, *RIN:* 0648-BG75

### 33. New England Industry-Funded Monitoring Amendment

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This rule implements measures for industry funding and prioritizing available Federal funding to pay for additional monitoring, consistent with specific monitoring coverage targets recently set by the New England Fishery Management Council, for New England fishery management plans. Specifically, this action would modify all the New England fishery management plans to allow standardized development of future, plan-specific, industry-funded monitoring programs. This action would also prioritize industry-funded monitoring programs across New England fishery management plans when available Federal funding falls short of the total needed to fully fund all monitoring programs. Finally, this rule implements industry-funded monitoring requirements for the Atlantic Herring fishery management plan.

*Timetable:*

Action	Date	FR Cite
Notice of Availability.	09/19/18	83 FR 47326
NPRM .....	11/07/18	83 FR 55665
NPRM Comment Period End.	12/24/18	
Final Action .....	02/07/20	85 FR 7414
Final Action Effective.	03/09/20	
Correcting Amendment.	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael Pentony, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric

Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281-9283, *Fax:* 978 281-9207, *Email:* michael.pentony@noaa.gov, *RIN:* 0648-BG91

### 34. Area of Overlap Between the Convention Areas of the Inter-American Tropical Tuna Commission and the Western and Central Pacific Fisheries Commission

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 16 U.S.C. 6901 *et seq.*; 16 U.S.C. 951 *et seq.*

*Abstract:* Under authority of the Western and Central Pacific Fisheries Convention Implementation Act and the Tuna Conventions Act, an area of overlap (overlap area) exists between the respective areas of competence of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean and the Inter-American Tropical Tuna Commission. NMFS proposes to change the application of the two Commissions' management decisions in the overlap area to specifically apply Inter-American Tropical Tuna Commission management measures in the overlap area rather than those of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean that currently apply there.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	06/12/18	83 FR 27305
ANPRM Comment Period End.	07/12/18	
NPRM .....	11/07/19	84 FR 60040
NPRM Comment Period End.	11/22/19	
Final Action .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael Tosatto, Regional Administrator, Pacific Islands Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1845 Wasp Boulevard, Building 176, Honolulu, HI 96818, *Phone:* 808 725-5000, *Email:* michael.tosatto@noaa.gov, *RIN:* 0648-BH59

### 35. Omnibus Deep-Sea Coral Amendment

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This action would implement the New England Fishery Management Council's Omnibus Deep-Sea Coral Amendment. The Amendment would implement measures that reduce impacts of fishing gear on deep-sea

corals in the Gulf of Maine and on the outer continental shelf. In doing so, this action would prohibit the use of mobile bottom-tending gear in two areas in the Gulf of Maine (Mount Desert Rock and Outer Schoodic Ridge), and it would prohibit the use of all gear (with an exception for red crab pots) along the outer continental shelf in waters deeper than a minimum of 600 meters.

*Timetable:*

Action	Date	FR Cite
Notice of Availability.	08/26/19	84 FR 44596
NPRM .....	01/03/20	85 FR 285
NPRM Comment Period End.	02/18/20	
Final Action .....	07/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael Pentony, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281-9283, *Fax:* 978 281-9207, *Email:* michael.pentony@noaa.gov, *RIN:* 0648-BH67

### 36. Generic Amendment to the Fishery Management Plans for the Reef Fish Resources of the Gulf of Mexico and Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This action, recommended by the Gulf of Mexico Fishery Management Council, would modify data reporting for owners or operators of federally permitted for-hire vessels (charter vessels and headboats) in the Gulf of Mexico, requiring them to declare the type of trip (for-hire or other) prior to departing for any trip, and electronically submit trip-level reports prior to off-loading fish at the end of each fishing trip. The declaration would include the expected return time and landing location. Landing reports would include information about catch and effort during the trip. The action would also require that these reports be submitted via approved hardware that includes a global positioning system attached to the vessel that is capable, at a minimum, of archiving global positioning system locations. This requirement would not preclude the use of global positioning system devices that provide real-time location data, such as the currently approved vessel monitoring systems.

*Timetable:*

Action	Date	FR Cite
Notice of Availability.	06/21/18	83 FR 28797
NPRM .....	10/26/18	83 FR 54069
Correction .....	11/08/18	83 FR 55850
Comment Period Extended.	11/20/18	83 FR 58522
NPRM Comment Period End.	11/26/18	
Comment Period Extended End.	01/09/19	
Final Action .....	06/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email:* roy.crabtree@noaa.gov.  
*RIN:* 0648–BH72

**37. Magnuson-Stevens Fisheries Conservation and Management Act; Traceability Information Program for Seafood**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 16 U.S.C. 1801 *et seq.*; Pub. L. 115–141

*Abstract:* On December 9, 2016, NMFS issued a final rule that established a risk-based traceability program to track seafood from harvest to entry into U.S. commerce. The final rule included, for designated priority fish species, import permitting and reporting requirements to provide for traceability of seafood products offered for entry into the U.S. supply chain, and to ensure that these products were lawfully acquired and are properly represented. Shrimp and abalone products were included in the final rule to implement the Seafood Import Monitoring Program, but compliance with Seafood Import Monitoring Program requirements for those species was stayed indefinitely due to the disparity between Federal reporting programs for domestic aquaculture of shrimp and abalone products relative to the requirements that would apply to imports under Seafood Import Monitoring Program. In section 539 of the Consolidated Appropriations Act, 2018, Congress mandated lifting the stay on inclusion of shrimp and abalone in Seafood Import Monitoring Program and authorized the Secretary of Commerce to require comparable reporting and recordkeeping requirements for domestic aquaculture of shrimp and abalone. This rulemaking would establish permitting, reporting and recordkeeping requirements for domestic producers of shrimp and

abalone from the point of production to entry into commerce.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/11/18	83 FR 51426
NPRM Comment Period End.	11/26/18	
Final Action .....	06/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Alexa Cole, Director, Office of International Affairs and Seafood Inspection, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427–8286, *Email:* alexa.cole@noaa.gov.  
*RIN:* 0648–BH87

**38. Vessel Movement, Monitoring, and Declaration Management Enhancement for the Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This rulemaking action would implement the Pacific Fishery Management Council's action to implement various measures that provide more efficient and effective monitoring, improve enforcement of restricted areas, and reduce costs for the Pacific coast groundfish fleet. This action would: Increase the required frequency of signals transmitted from type-approved vessel monitoring system (VMS) units from once per hour to every 15 minutes to provide finer-scale vessel location data; allow vessels to use alternative VMS units; add a VMS declaration to indicate when a vessel is testing gear; allow vessels participating in the midwater trawl whiting fishery to change their declaration while at-sea to select a new whiting fishery; and allow vessels to move pot gear from one management area to another during a single trip while retaining fish from the primary management area.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/10/19	84 FR 54579
NPRM Comment Period End.	11/12/19	
Final Action .....	06/11/20	85 FR 35594
Final Action Effective.	07/13/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Barry Thom, Regional Administrator, West Coast Region, Department of Commerce,

National Oceanic and Atmospheric Administration, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232, *Phone:* 503 231–6266, *Email:* barry.thom@noaa.gov.  
*RIN:* 0648–B145

**39. Framework Adjustment 59 to the Northeast Multispecies Fishery Management Plan**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This rulemaking action proposes to implement management measures included in the New England Fishery Management Council's Framework Adjustment 59 to the Northeast Multispecies Fishery Management Plan (Framework 59) developed in response to new scientific information. The proposed action would set fishing years 2020–2022 specifications for 15 groundfish stocks, and fishing year 2020 total allocable catches (TAC) for the three U.S./Canada stocks: Eastern Georges Bank cod, Eastern Georges Bank haddock, and Georges Bank yellowtail flounder. This action would also revise the Georges Bank cod incidental TAC to remove the allocation to the Closed Area I Hook Gear Haddock Special Access Program, and as necessary in response to any new data coming from the Marine Recreational Information Program, address commercial/recreational allocation issues.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/29/20	85 FR 32347
NPRM Comment Period End.	06/15/20	
Final Action .....	07/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Michael Pentony, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9283, *Fax:* 978 281–9207, *Email:* michael.pentony@noaa.gov.  
*RIN:* 0648–BJ12

**40. Vessel Monitoring Systems; Amendment to Type—Approval Requirements**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* The U.S. Vessel Monitoring System (VMS) program type-approves enhanced mobile transceiver units (EMTUs) for use in the U.S. Currently, the only option for transferring VMS data from ship to NMFS is by satellite-

linked communication services. All owners of vessels participating in the NOAA VMS program are required to carry a NMFS-approved EMTU or MTU to comply with the Vessel Monitoring System requirements. The proposed rule would modify the type-approval requirements to allow for communication service by cellular EMTUs (EMTU-Cs), in addition to satellite-only models. The need for the rule is to set out procedures and requirements for initial type-approvals; compliance with, and revocations and appeals of type-approvals; and technical, service, and performance specifications. This would allow EMTU-Cs to be type-approved and used in certain federally managed fisheries with a VMS requirement. Generally, cellular communication services come at a significantly lower cost than satellite services. A lower cost could ease the financial burden on fishermen, while providing NMFS with additional capabilities to manage fishery resources, and to protect marine species and ecologically sensitive areas.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/24/20	85 FR 4257
NPRM Comment Period End.	02/24/20	
Final Action .....	06/00/20	

**Regulatory Flexibility Analysis Required: Yes.**

*Agency Contact:* James Landon, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Hwy., Bldg. SSMC 3, Room 3151, Silver Spring, MD 20910, *Phone:* 301 427–8245, *Email:* james.landon@noaa.gov.  
*RIN:* 0648–BJ15

**41. • Regulatory Amendment To Adjust the North Pacific Observer Program Partial Coverage Fee**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* In response to a recommendation by the North Pacific Fishery Management Council, this action would modify the fee percentage assessed on groundfish and halibut landings made by vessels operating in the Bering Sea and Aleutian Islands and Gulf of Alaska management areas. This action would increase the observer fee from 1.25 percent to 1.65 percent of the ex-vessel value of landings made by vessels that are not in the full coverage category. Fee revenues are used to fund deployment of observers and electronic monitoring (EM) in the partial coverage

category of the North Pacific Observer Program. This action is necessary to provide additional funding to deploy observers and EM in the partial coverage category to better meet monitoring objectives for the North Pacific Observer Program. Section 313 of the Magnuson-Stevens Fishery Conservation and Management Act establishes that data collected by well-trained, independent observers and EM are a cornerstone of the sustainable management of Federal fisheries off Alaska.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/09/20	85 FR 13618
NPRM Comment Period End.	04/08/20	
Final Action .....	07/00/20	

**Regulatory Flexibility Analysis Required: Yes.**

*Agency Contact:* James Balsiger, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586–7221, *Fax:* 907 586–7465, *Email:* jim.balsiger@noaa.gov.  
*RIN:* 0648–BJ40

**42. Reducing Disturbances to Hawaiian Spinner Dolphins From Human Interactions**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1361 *et seq.*

*Abstract:* This action would implement regulatory measures under the Marine Mammal Protection Act to protect Hawaiian spinner dolphins that are resting in protected bays from take due to close approach interactions with humans.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	12/12/05	70 FR 73426
ANPRM Comment Period End.	01/11/06	
NPRM .....	08/24/16	81 FR 57854
NPRM Comment Period End.	10/23/16	
NPRM Comment Period Re-opened.	11/16/16	81 FR 80629
NPRM Comment Period Re-opened End.	12/01/16	
Final Action .....	07/00/20	

**Regulatory Flexibility Analysis Required: Yes.**

*Agency Contact:* Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric

Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427–8400.  
*RIN:* 0648–AU02

**43. Taking and Importing Marine Mammals: Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 16 U.S.C. 1361 *et seq.*

*Abstract:* The National Marine

Fisheries Service is taking this action in response to an October 17, 2016, petition from the U.S. Department of Interior (DOI), Bureau of Ocean Energy Management (BOEM), to promulgate regulations governing the authorization of take of marine mammals incidental to oil and gas industry geophysical surveys conducted in support of hydrocarbon exploration and development on the Outer Continental Shelf in the Gulf of Mexico from approximately 2019 through 2024.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/22/18	83 FR 29212
NPRM Comment Period End.	08/21/18	
Final Action .....	06/00/20	

**Regulatory Flexibility Analysis Required: Yes.**

*Agency Contact:* Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427–8400.  
*RIN:* 0648–BB38

**44. Revision to Critical Habitat Designation for Endangered Southern Resident Killer Whales**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 16 U.S.C. 1531 *et seq.*

*Abstract:* The proposed action would revise the designation of critical habitat for the endangered Southern Resident killer whale distinct population segment, pursuant to section 4 of the Endangered Species Act. Critical habitat for this population is currently designated within inland waters of Washington. In response to a 2014 petition, NMFS is proposing to expand the designation to include areas occupied by Southern Resident killer whales in waters along the U.S. West Coast. Impacts from the designation would stem mainly from Federal agencies' requirement to consult with NMFS, under section 7 of the

Endangered Species Act, to ensure that any action they carry out, permit (authorize), or fund will not result in the destruction or adverse modification of critical habitat of a listed species. Federal agencies are already required to consult on effects to the currently designated critical habitat in inland waters of Washington, but consultation would be newly required for actions affecting the expanded critical habitat areas. Federal agencies are also already required to consult within the Southern Resident killer whales' range (including along the U.S. West Coast) to ensure that any action they carry out, permit, or fund will not jeopardize the continued existence of the species; this requirement would not change with a revision to the critical habitat designation.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/19/19	84 FR 49214
NPRM Comment Period End.	12/18/19	
Final Rule .....	09/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8400.

*RIN:* 0648-BH95

#### 45. Designation of Critical Habitat for the Mexico, Central American, and Western Pacific Distinct Population Segments of Humpback Whales Under The Endangered Species Act

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 16 U.S.C. 1531 *et seq.*

*Abstract:* This action will propose the designation of critical habitat for three distinct population segments of humpback whales (*Megaptera novaeangliae*) pursuant to section 4 of the Endangered Species Act. The three distinct population segments of humpback whales concerned—the Mexico, Central American, and Western Pacific distinct population segments—were listed under the Endangered Species Act on September 8, 2016, thereby triggering the requirement under section 4 of the Endangered Species Act to designate critical habitat to the maximum extent prudent and determinable. Proposed critical habitat for these three distinct population segments of humpback whales will include marine habitats within the

Pacific Ocean and Bering Sea and will likely overlap with several existing designations, including critical habitat for leatherback sea turtles, North Pacific right whales, Steller sea lions, southern resident killer whales, and the southern distinct population segment of green sturgeon. Impacts from the designations for humpback whales would stem from the statutory requirement for Federal agencies to consult with NMFS, under section 7 of the Endangered Species Act, to ensure that any action they carry out, authorize, or fund will not result in the destruction or adverse modification of humpback whale critical habitat. Within many of the areas we are evaluating for potential proposal as critical habitat for the humpback whales distinct population segments, Federal agencies are already required to consult on effects to currently designated critical habitat for other listed species. Federal agencies are also already required to consult with NMFS under section 7 of the Endangered Species Act to ensure that any action they authorize, fund or carry out will not jeopardize the continued existence of the listed distinct population segments of humpback whales.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/09/19	84 FR 54354
NPRM Comment Period End.	12/09/19	
NPRM Comment Period Extended.	11/27/19	84 FR 65346
NPRM Comment Period Extended End.	01/31/20	
Final Action .....	10/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8400.

*RIN:* 0648-BI06

#### NOS/ONMS

#### 46. Wisconsin—Lake Michigan National Marine Sanctuary Designation

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 16 U.S.C. 1431 *et seq.*

*Abstract:* On December 2, 2014, pursuant to section 304 of the National Marine Sanctuaries Act and the Sanctuary Nomination Process (79 FR 33851), a coalition of community groups submitted a nomination asking NOAA to designate an area of Wisconsin's Lake

Michigan waters as a national marine sanctuary. The area is a region that includes 875 square miles of Lake Michigan waters and bottomlands adjacent to Manitowoc, Sheboygan, and Ozaukee counties and the cities of Port Washington, Sheboygan, Manitowoc, and Two Rivers. It includes 80 miles of shoreline and extends 9 to 14 miles from the shoreline. The area contains an extraordinary collection of submerged maritime heritage resources (shipwrecks) as demonstrated by the listing of 15 shipwrecks on the National Register of Historic Places. The area includes 39 known shipwrecks, 123 reported vessel losses, numerous other historic maritime-related features, and is adjacent to communities that have embraced their centuries-long relationship with Lake Michigan. NOAA completed its review of the nomination in accordance with the Sanctuary Nomination Process and on February 5, 2015, added the area to the inventory of nominations that are eligible for designation. On October 7, 2015, NOAA issued a notice of intent to begin the designation process and asked for public comment on making this area a national marine sanctuary. Designation under the National Marine Sanctuaries Act would allow NOAA to supplement and complement work by the State of Wisconsin and other Federal agencies to protect this collection of nationally significant shipwrecks.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/09/17	82 FR 2269
NPRM Comment Period End.	03/31/17	
Final Action .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Vicki Wedell, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (N/ORM6), Silver Spring, MD 20910, Phone: 240 533-0650, Email: [vicki.wedell@noaa.gov](mailto:vicki.wedell@noaa.gov).

*RIN:* 0648-BG01



**DEPARTMENT OF COMMERCE (DOC)**

National Oceanic and Atmospheric Administration (NOAA)

## Long-Term Actions

**National Marine Fisheries Service****47. Implementation of a Program for Transshipments by Large Scale Fishing Vessels in the Eastern Pacific Ocean**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 951 *et seq.*; 16 U.S.C. 971 *et seq.*

*Abstract:* This rule would implement the Inter-American Tropical Tuna Commission program to monitor transshipments by large-scale tuna fishing vessels, and would govern transshipments by U.S. large-scale tuna fishing vessels and carrier, or receiving, vessels. The rule would establish: Criteria for transshipping in port; criteria for transshipping at sea by longline vessels to an authorized carrier vessel with an Inter-American Tropical Tuna Commission observer onboard and an operational vessel monitoring system; and require the Pacific Transshipment Declaration Form, which must be used to report transshipments in the Inter-American Tropical Tuna Commission Convention Area. This rule is necessary for the United States to satisfy its international obligations under the 1949 Convention for the Establishment of an Inter-American Tropical Tuna, to which it is a Contracting Party.

*Timetable:*

Action	Date	FR Cite
To Be Determined	To Be Determined	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Barry Thom, Phone: 503 231-6266, Email: barry.thom@noaa.gov.

*RIN:* 0648-BD59

**48. International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Treatment of U.S. Purse Seine Fishing With Respect to U.S. Territories**

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 16 U.S.C. 6901 *et seq.*

*Abstract:* This action would establish rules and/or procedures to address the treatment of U.S.-flagged purse seine vessels and their fishing activities in regulations issued by the National Marine Fisheries Service that implement decisions of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean

(Commission), of which the United States is a member. Under the Western and Central Pacific Fisheries Convention Implementation Act, the National Marine Fisheries Service exercises broad discretion when determining how it implements Commission decisions, such as purse seine fishing restrictions. The National Marine Fisheries Service intends to examine the potential impacts of the domestic implementation of Commission decisions, such as purse seine fishing restrictions, on the economies of the U.S. territories that participate in the Commission, and examine the connectivity between the activities of U.S.-flagged purse seine fishing vessels and the economies of the territories. Based on that and other information, the National Marine Fisheries Service might propose regulations that mitigate adverse economic impacts of purse seine fishing restrictions on the U.S. territories and/or that, in the context of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention), recognize that one or more of the U.S. territories have their own purse seine fisheries that are distinct from the purse seine fishery of the United States and that are consequently subject to special provisions of the Convention and of Commission decisions.

*Timetable:*

Action	Date	FR Cite
ANPRM ..... ANPRM Comment Period End.	10/23/15 11/23/15	80 FR 64382
To Be Determined	To Be Determined	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Michael Tosatto, Phone: 808 725-5000, Email: michael.tosatto@noaa.gov.

*RIN:* 0648-BF41

**DEPARTMENT OF COMMERCE (DOC)**

National Oceanic and Atmospheric Administration (NOAA)

## Completed Actions

**49. Comprehensive Fishery Management Plan for St. Croix**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This rule would implement a comprehensive St. Croix Fishery Management Plan. The Plan would

incorporate, and modify as needed, Federal fisheries management measures presently included in each of the existing species-based U.S. Caribbean Fishery Management Plans (Spiny Lobster, Reef Fish, Coral, and Queen Conch Fishery Management Plans) as those measures pertain to St. Croix exclusive economic zone waters. The goal of this action is to create a Fishery Management Plan tailored to the specific fishery management needs of St. Croix. This new Plan, in conjunction with similar comprehensive Fishery Management Plans being developed for Puerto Rico and St. Thomas/St. John, would replace the Spiny Lobster, Reef Fish, Coral and Queen Conch Fishery Management Plans presently governing the commercial and recreational harvest in U.S. Caribbean exclusive economic zone waters.

*Timetable:*

Action	Date	FR Cite
Merged With 0648-BD32.	01/31/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, Phone: 727 824-5305, Fax: 727 824-5308, Email: roy.crabtree@noaa.gov.

*RIN:* 0648-BD33

**50. Comprehensive Fishery Management Plan for St. Thomas/St. John**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This rule would implement a comprehensive St. Thomas/St. John Fishery Management Plan. The Plan would incorporate, and modify as needed, Federal fisheries management measures presently included in each of the existing species-based U.S. Caribbean Fishery Management Plans (Spiny Lobster, Reef Fish, Coral, and Queen Conch Fishery Management Plans) as those measures pertain to St. Thomas/St. John exclusive economic zone waters. The goal of this action is to create a Fishery Management Plan tailored to the specific fishery management needs of St. Thomas/St. John. This new Plan, in conjunction with similar comprehensive Fishery Management Plans being developed for St. Croix and Puerto Rico, would replace the Spiny Lobster, Reef Fish, Coral and Queen Conch Fishery



Management Plans presently governing the commercial and recreational harvest in U.S. Caribbean exclusive economic zone waters.

*Timetable:*

Action	Date	FR Cite
Merged With 0648-BD32.	01/31/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824-5305, *Fax:* 727 824-5308, *Email:* roy.crabtree@noaa.gov, *RIN:* 0648-BD34

**51. Jonah Crab Fishery; Interstate Fishery Management Plan for Jonah Crab**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 5101 *et seq.*

*Abstract:* The National Marine Fisheries Service implements Federal Jonah crab regulations to help achieve the goal of the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan to promote Jonah crab conservation, reduce the possibility of recruitment failure, and allow the industry to continue fishing the resource at present levels. The Jonah Crab Plan was developed out of concern for potential impacts to the status of the Jonah crab resource, given the recent and rapid increase in landings.

Commercial and recreational measures and reporting requirements were recommended for Federal implementation in the Jonah Crab Plan. Measures include: Permitting, minimum size, prohibition on retaining egg-bearing females, and incidental bycatch limit, and reporting requirements that are consistent with American lobster fishery requirements. Most States have implemented measures consistent with the Plan. These measures complement those implemented by the States.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	10/13/16	81 FR 70658
ANPRM Comment Period End.	11/14/16	
NPRM .....	03/22/19	84 FR 10756
NPRM Comment Period End.	04/22/19	
Final Action .....	11/13/19	84 FR 61569
Final Action Effective.	12/12/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Michael Pentony, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281-9283, *Fax:* 978 281-9207, *Email:* michael.pentony@noaa.gov, *RIN:* 0648-BF43

**52. Vision Blueprint Commercial Regulatory Amendment 27 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region**

*E.O. 13771 Designation:* Deregulatory. *Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* During a series of stakeholder meetings in 2014, the South Atlantic Fishery Management Council (Council) gathered input from commercial fishermen throughout the region. Based on the input, the Council developed the 2016-2020 Vision Blueprint for the commercial sector of the Snapper-Grouper Fishery Management Plan (Vision Blueprint). The Vision Blueprint identifies the goals, objectives, strategies, and actions that support the vision for the snapper-grouper fishery. This rulemaking action implements Regulatory Amendment 27, which addresses specific action items in the Vision Blueprint for the commercial sector of the Snapper-Grouper FMP such as seasonal management, trip limits and minimum size limits, and intends to allow more equitable access, minimize discards, and achieve optimum yield.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/17/19	84 FR 55531
NPRM Comment Period End.	11/18/19	
Final Action .....	01/27/20	85 FR 4588
Final Action Effective.	02/26/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824-5305, *Fax:* 727 824-5308, *Email:* roy.crabtree@noaa.gov, *RIN:* 0648-BI32

**53. Amendment 21-4 to the Pacific Coast Groundfish Fishery Management Plan: Trawl Catch Share Program 5-Year Review Follow-On Actions**

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* Based on the Pacific Fishery Management Council's and NOAA Fisheries 5-year review of the Pacific Coast Groundfish Fishery Trawl Catch Share Program, completed in 2017, this rulemaking action implements the Council's recommendation to adjust the Program. Adjustments are aimed at modifying outdated Program regulations and making the Program more effective, specifically by: Changing bycatch hard caps for canary rockfish and widow rockfish in the at-sea whiting sector to set asides; removing the formulas used to determine at-sea whiting sector set-aside amounts of canary rockfish, widow rockfish, darkblotched rockfish, and Pacific ocean perch, and instead determining appropriate amounts through the adaptive biennial harvest specification process; allowing post-season quota trading for vessel accounts in deficit at the end of the year; eliminating the September 1st expiration deadline for unused quota not transferred to a vessel account; setting permit ownership accumulation limits for the whiting Catcher Processor sector; and requiring new economic data collections for Catcher Processor permit owners and quota share owners to better evaluate Catch Share program performance. Similar collections are currently required for the shorebased catcher and at-sea mothership sectors; this action would provide complete economic performance data for all sectors of the Catch Share Program.

*Timetable:*

Action	Date	FR Cite
Notice of Availability.	08/30/19	84 FR 45706
NPRM .....	10/10/19	84 FR 54561
NPRM Comment Period End.	10/29/19	
Final Action .....	12/17/19	84 FR 68799
Final Action Effective.	01/16/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Barry Thom, Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232, *Phone:* 503 231-6266, *Email:* barry.thom@noaa.gov, *RIN:* 0648-BI35

**54. Framework Adjustment 13 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan**

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

**Abstract:** This rulemaking implemented the Mid-Atlantic Fishery Management Council's action to establish a rebuilding program that would rebuild the Atlantic mackerel stock within five years (by 2023), implement Atlantic mackerel catch limits for 2019–2021, and set a catch cap for river herring and shad in the mackerel fishery. The objectives of this action are to eliminate overfishing and rebuild this stock, as required by the Magnuson-Stevens Fishery Conservation and Management Act, and limit bycatch of river herring and shad in the Atlantic mackerel fishery. This action would: Set 2019–2021 Atlantic mackerel acceptable biological catch, establish a rebuilding program that sets commercial catch limits to rebuild the stock within five years, modify the directed fishery closure process to slow effort and harvest rates as the quota is approached and preserve sufficient quota for mackerel bycatch in other fisheries, and specify 2019–2021 river herring and shad catch caps for the mackerel fishery.

**Timetable:**

Action	Date	FR Cite
NPRM .....	06/07/19	84 FR 26634
NPRM Comment Period End.	07/08/19	
Final Action .....	10/30/19	84 FR 58053
Final Action Effective.	11/29/19	

**Regulatory Flexibility Analysis**

**Required:** Yes.

**Agency Contact:** Michael Pentony, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9283, *Fax:* 978 281–9207, *Email:* michael.pentony@noaa.gov, *RIN:* 0648–BI49

**55. Atlantic Highly Migratory Species; Pelagic Longline Bluefin Tuna Area-Based and Weak Hook Management**

**E.O. 13771 Designation:** Deregulatory. **Legal Authority:** 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 971 *et seq.*

**Abstract:** Atlantic Highly Migratory Species (HMS) fisheries are managed under the dual authority of the Magnuson-Stevens Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). This rulemaking will address the area-based and weak hook management measures for bluefin tuna in the pelagic longline fishery. NMFS implemented an individual bluefin tuna quota system for pelagic longline fishery participants in 2015. With this approach

and its emphasis on individual vessel accountability, NMFS has determined some fleetwide measures may be redundant. This action would appropriately streamline regulations and increase flexibility to the Atlantic pelagic longline fishery while maintaining bycatch reduction and conservation and management obligations.

**Timetable:**

Action	Date	FR Cite
NPRM .....	07/12/19	84 FR 33205
NPRM Correction	08/08/19	84 FR 38918
NPRM Comment Period End.	09/30/19	
Final Action .....	04/02/20	85 FR 18812
Final Action Effective.	04/02/20	

**Regulatory Flexibility Analysis**

**Required:** Yes.

**Agency Contact:** Jennifer M. Wallace, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 13362, Silver Spring, MD 20910, *Phone:* 301 427–8500, *Email:* jenni.wallace@noaa.gov, *RIN:* 0648–BI51

**56. Reduce Gulf of Mexico Red Grouper Annual Catch Limits and Annual Catch Targets**

**E.O. 13771 Designation:** Not subject to, not significant.

**Legal Authority:** 16 U.S.C. 1801 *et seq.*

**Abstract:** The Gulf of Mexico Fishery Management Council (Council) has requested that NMFS publish a rule under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to temporarily reduce the red grouper commercial and recreational Annual Catch Limits (ACLs) and associated Annual Catch Targets (ACTs). In October 2018, the Council's Scientific and Statistical Committee (SSC) reviewed the results of an interim analysis performed by the Southeast Fisheries Science Center and recommended that the Council reduce the red grouper commercial and recreational ACLs and ACTs, effective for the 2019 fishing year. In addition, there have been recent decreases in red grouper landings and public testimony at the October Council meeting expressed concern about the status of the red grouper stock. Therefore, the Council is developing a framework action to reduce the ACLs and ACTs. In the meantime, based on these recent unforeseen circumstances, and consistent with the Council's request, NMFS intends to implement a rule under MSA section 305(c) to establish

lower red grouper ACLs and ACTs for 2019.

**Timetable:**

Action	Date	FR Cite
Proposed Emergency Rule.	03/05/19	84 FR 7864
Proposed Emergency Rule Comment Period End.	03/20/19	
Final Emergency Rule.	05/17/19	84 FR 22389
Final Emergency Rule Effective.	05/17/19	

**Regulatory Flexibility Analysis**

**Required:** Yes.

**Agency Contact:** Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email:* roy.crabtree@noaa.gov, *RIN:* 0648–BI63

**57. Amendment 118 To Allow Halibut Retention in BSAI IFQ Pot Gear in the Fishery Management Plan for Groundfish of the BSAI**

**E.O. 13771 Designation:** Deregulatory.

**Legal Authority:** 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 773

**Abstract:** In response to the North Pacific Fisheries Management Council's recommendation, this action allows retention of halibut in pot gear in the Bering Sea and Aleutian Islands (BSAI), provided the operator holds sufficient halibut Individual Fishing Quota (IFQ) or Community Development Quota (CDQ) for that IFQ regulatory area. The purpose of this action is to improve efficient harvest of the halibut resource by (1) decreasing wastage of legal-size halibut discarded in the existing BSAI sablefish pot fishery, and (2) potentially reducing whale depredation of halibut from hook-and-line gear by authorizing the use of pot gear in the halibut IFQ and CDQ fisheries. Currently, halibut are only permitted to be harvested with hook-and-line gear. As part of this action, NMFS would require vessels interested in retaining halibut in pot gear in the BSAI to install and operate Vessel Monitoring Systems and daily fishing logbooks and close the Pribilof Island Habitat Conservation Zone to all fishing with pot gear. In the event that there is a conservation concern for bycatch of shellfish or groundfish species, NMFS would have the authority to close the directed longline and pot halibut fisheries in both the BSAI and the Gulf of Alaska.

**Timetable:**

Action	Date	FR Cite
Notice of Availability.	08/21/19	84 FR 43570
NPRM .....	10/03/19	84 FR 52852
NPRM Correction	10/28/19	84 FR 57687
NPRM Comment Period End.	11/04/19	
Final Action .....	01/08/20	85 FR 840
Final Action Effective.	02/07/20	

*Regulatory Flexibility Analysis*  
*Required:* Yes.

*Agency Contact:* James Balsiger, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586-7221, *Fax:* 907 586-7465, *Email:* jim.balsiger@noaa.gov.

*RIN:* 0648-BI65

**58. Interim 2019 Tribal Pacific Whiting Allocation and Require Consideration of Chinook Salmon Bycatch Before Reapportioning Tribal Whiting; Pacific Coast Groundfish**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* NMFS issued a final rule for the tribal Pacific whiting (whiting) fishery off the coast of Washington State. The purpose is to establish an interim 2019 tribal whiting allocation, and to protect ESA-listed Chinook salmon, as required in the Terms and Conditions of a December 11, 2017, Biological Opinion. NMFS developed this rule after discussions with the affected tribes and the non-tribal fisheries interests. As in prior years, this allocation is an “interim” allocation that is not intended to set precedent for future years.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/15/19	84 FR 9471
NPRM Comment Period End.	04/01/19	
Final Rule .....	05/10/19	84 FR 20578
Final Rule Effective.	05/10/19	
Correcting Amendment.	12/02/19	84 FR 65925
Correcting Amendment Effective.	12/02/19	

*Regulatory Flexibility Analysis*  
*Required:* Yes.

*Agency Contact:* Barry Thom, Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR

97232, *Phone:* 503 231-6266, *Email:* barry.thom@noaa.gov.  
*RIN:* 0648-BI67

**59. Requirements To Safeguard Fishery Observers in the Eastern Pacific Ocean**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 951 *et seq.*

*Abstract:* This rulemaking action would domestically implement recently adopted resolutions on improving observer safety at sea by parties to the Inter-American Tropical Tuna Commission (IATTC) and the Agreement on the International Dolphin Conservation Program (AIDCP), including the United States. The resolutions are binding for IATTC member nations and AIDCP Parties, and under the Tuna Conventions Act, 16 U.S.C. 951 *et seq.* and the Marine Mammal Protection Act of 1972, as amended. These resolutions aim to strengthen protections for observers required in longline and transshipment observer programs required under the IATTC and on purse seine vessels required by the AIDCP. In implementing them, this rulemaking proposes to include provisions that detail responsibilities for vessel owners and operators, responsibilities for IATTC and AIDCP members to which fishing vessels are flagged, responsibilities for members that have jurisdiction over ports, and responsibilities for observer providers. The action is necessary for the United States to satisfy its international obligations as a Member of the IATTC and AIDCP. This RIN was merged with 0648-BJ23.

*Timetable:*

Action	Date	FR Cite
Merged With 0648-BJ23.	09/05/19	

*Regulatory Flexibility Analysis*  
*Required:* Yes.

*Agency Contact:* Barry Thom, Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232, *Phone:* 503 231-6266, *Email:* barry.thom@noaa.gov.  
*RIN:* 0648-BI86

**60. Framework Action To Reduce Gulf of Mexico Red Grouper Annual Catch Limits and Annual Catch Targets to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* NMFS proposes to implement management measures described in a framework action to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico (Gulf), as prepared by the Gulf of Mexico Fishery Management Council (Council). The framework action is titled “Modification of Gulf of Mexico Red Grouper Annual Catch Limits and Annual Catch Targets.” This proposed rule would reduce the red grouper commercial and recreational annual catch limits (ACLs) and annual catch targets (ACTs). The purpose of this rule is to continue the Gulf red grouper commercial and recreational ACL and ACT reductions implemented through emergency rulemaking in 2019 to protect the stock and to continue to achieve optimum yield.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/19/19	84 FR 34845
NPRM Comment Period End.	08/19/19	
Final Action .....	10/01/19	84 FR 52036
Final Action Effective.	10/31/19	

*Regulatory Flexibility Analysis*  
*Required:* Yes.

*Agency Contact:* Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824-5305, *Fax:* 727 824-5308, *Email:* roy.crabtree@noaa.gov.  
*RIN:* 0648-BI95

**61. Amendment 18 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, U.S. Waters**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This action implements the Gulf of Mexico Fishery Management Council’s Amendment 18 to the Shrimp Fishery Management Plan. It would do so by adjusting the target reduction goal for juvenile red snapper mortality in the Federal Gulf of Mexico (Gulf) shrimp trawl fishery in the 10–30 fathom depth zone, as well as modifying the Plan’s framework procedure to streamline the process to make future modifications to this target reduction goal. As part of the Gulf red snapper rebuilding plan, NMFS previously capped effort in the Gulf shrimp fishery based on Council recommendation to protect juvenile red snapper caught as bycatch in shrimp nets. However, the Gulf red snapper stock is no longer overfished or undergoing overfishing, and the red

snapper stock acceptable biological catch (ABC) has consistently increased under the rebuilding plan. Accordingly, this action is expected to promote economic stability and achievement of optimum yield in the Federal Gulf shrimp fishery by reducing effort constraints, while continuing to protect Gulf red snapper.

*Timetable:*

Action	Date	FR Cite
Notice of Availability.	08/01/19	84 FR 37611
NPRM .....	08/29/19	84 FR 45459
NPRM Comment Period End.	09/30/19	
Final Action .....	02/06/20	85 FR 6816
Final Action Effective.	03/09/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824-5305, *Fax:* 727 824-5308, *Email:* roy.crabtree@noaa.gov.

*RIN:* 0648-BI96

**62. Revisions to the Seabird Avoidance Program for the Pacific Coast Groundfish Fishery Management Plan**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* In response to a recommendation by the Pacific Fishery Management Council, this proposed rule would require commercial groundfish bottom longline vessels 26 feet length overall (LOA) and longer managed under the Pacific Coast Groundfish Fishery Management Plan (FMP) to deploy streamer lines or to set gear during civil twilight when fishing in Federal waters north of 36 degrees N latitude. The purpose of this proposed rule is to reduce interactions between seabirds, especially Endangered Species Act listed species, and groundfish longline gear. The action is necessary to fulfill terms and conditions of a 2017 biological opinion published by the United States Fish and Wildlife Service to minimize takes of endangered short-tailed albatross by the Pacific Coast groundfish fishery.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/12/19	84 FR 48094
NPRM Comment Period End.	10/15/19	
Final Rule .....	12/11/19	84 FR 67674

Action	Date	FR Cite
Final Action Effective.	01/10/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Barry Thom, Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232, *Phone:* 503 231-6266, *Email:* barry.thom@noaa.gov.

*RIN:* 0648-BI99

**63. Amendment 120 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and Amendment 108 to the Fishery Management Plan**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This rulemaking action proposes to implement a recommendation by the North Pacific Fishery Management Council (Council) to limit the number of catcher/processors (CPs) acting as motherships and taking deliveries of Pacific cod from trawl catcher vessels (CVs) in the Bering Sea and Aleutian Islands (BSAI) and the Gulf of Alaska (GOA) directed Pacific cod fisheries. In recent years, an unexpected increase in the number of CPs accepting such deliveries allowed under current regulations has resulted in increased deliveries of BSAI non-Community Development Quota Pacific cod by trawl CVs engaging in directed fishing to CPs acting as motherships, a corresponding decrease in the amount of Pacific cod delivered to shoreside processing facilities, and a faster-paced fishery (e.g., earlier closures of the fishing season due to quota being harvested). The Council determined that limiting the number of eligible licenses issued under the License Limitation Program (LLP) assigned to CPs to act as motherships in this fishery could reduce the portion of Pacific cod delivered offshore to recent historical levels, prevent further reductions in the amount of Pacific cod delivered to shoreside processors, and stabilize the fishing season duration. This action proposes to modify the LLP by establishing eligibility criteria, based on historic participation, for an endorsement to licenses assigned to CPs to act as motherships in this fishery. This action would also prohibit Amendment 80 sector CPs not designated on an Amendment 80 Quota Share (QS) permit and an Amendment 80 LLP license or not designated on an

Amendment 80 LLP/QS license from receiving Pacific cod harvested in the directed Pacific cod fisheries in the BSAI and GOA. This prohibition would ensure that only an Amendment 80 replacement CP, as specified under Amendment 97 to the Fishery Management Plan for Groundfish of the BSAI Management Area (77 FR 59852, October 21, 2012), and not the replaced Amendment 80 CP, could participate in directed Pacific cod fisheries in the BSAI or the GOA. This would limit the expanded use of CPs once they leave the Amendment 80 program.

*Timetable:*

Action	Date	FR Cite
Notice of Availability.	08/21/19	84 FR 43576
NPRM .....	09/27/19	84 FR 51092
NPRM Comment Period End.	10/28/19	
Final Action .....	12/20/19	84 FR 70064
Final Action Effective.	01/20/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* James Balsiger, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586-7221, *Fax:* 907 586-7465, *Email:* jim.balsiger@noaa.gov.

*RIN:* 0648-BJ02

**64. Framework Adjustment 6 and 2019-2021 Atlantic Herring Fishery Specifications**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This rulemaking action proposes to implement the New England Fishery Management Council's Framework Adjustment 6 to the Atlantic Herring Fishery Management Plan. Framework 6 includes the Atlantic herring fishery specifications (annual catch amounts for the 2019-2021 fishing years, as herring specifications are typically set for 3 years), updates to the overfished and overfishing definitions, and a change in the carryover provision for quota underages in the herring fishery. The specifications proposed in this rulemaking include annual gear-specific and area-specific catch caps for river herring and shad for Atlantic herring trips for the 2019-2021 fishing years. In implementing Framework 6, this action also proposes to update the overfished and overfishing definitions to be more consistent with the most recent Atlantic herring resource stock assessment and Amendment 8 to the

Atlantic Herring Fishery Management Plan (which is being implemented through another rulemaking). Finally, it also proposes to temporarily suspend the carryover provision in the herring regulations that allows up to 10 percent of each Management sub-Area annual catch limit to be added to the quota for that sub-Area in the next applicable year.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/28/20	85 FR 4932
NPRM Comment Period End.	02/12/20	
Final Action Effective.	05/05/20	
Final Action .....	05/06/20	85 FR 26874

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Michael Pentony, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281-9283, *Fax:* 978 281-9207, *Email:* michael.pentony@noaa.gov, *RIN:* 0648-BJ13

**65. • Framework Action to the Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico; Modification to the Recreational For-Hire Red Snapper Annual Catch Target (ACT) Buffer**

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* In response to a recommendation by the Gulf of Mexico Fishery Management Council, this rulemaking action proposes to retain the 9 percent buffer between the annual catch target (ACT) and annual catch limit (ACL) for the red snapper for-hire component, which was first implemented in 2019. The ACT is used to set the season length and because the federal for-hire component landings have remained well below the ACL, the Gulf of Mexico Fishery Management Council (Council) and NMFS reduced the buffer between the ACT and ACL from 20 percent to 9 percent. This reduction was initially put in place for only the 2019 fishing season to coincide with the last year of exempted fishing permits that allowed each of the five Gulf states to set the season for private anglers landing in that state. However, given an ongoing rulemaking process to continue limited state management of the private angling component (0648-BI84), the Council recommended retention of the lower federal for-hire buffer. State management of the private-angling component is expected to

reduce the uncertainty in private-angling landings and help constrain those landing to the private-angling ACL. Therefore, This will allow the federal for-hire component to continue to harvest more of the ACL while constraining landings to the component and total recreational ACL.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/12/19	84 FR 61003
NPRM Comment Period End.	12/12/19	
Final Action .....	02/20/20	85 FR 9684
Final Action Effective.	03/23/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824-5305, *Fax:* 727 824-5308, *Email:* roy.crabtree@noaa.gov, *RIN:* 0648-BJ28

**66. • Framework Adjustment 32 to the Atlantic Sea Scallop Fishery Management Plan**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* The purpose of this proposed rule is to approve and implement Framework 32 that sets management measures for the scallop fishery for the 2020 fishing year, including the annual catch limits for the limited access and limited access general category (LAGC) fleets, as well as days-at-sea (DAS) allocations and sea scallop access area trip allocations. Furthermore, Framework 32 would: Extend the existing seasonal closure in Closed Area II two additional weeks to reduce bycatch of Georges Bank yellowtail flounder and northern windowpane flounder, modify the one-for-one access area trip exchange requirements to accommodate different access area allocations, and close areas to fishing to protect small scallops and reduce bycatch of flatfish.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/20/20	85 FR 9705
NPRM Comment Period End.	03/06/20	
Final Action .....	03/31/20	85 FR 17754
Final Action Effective.	04/01/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Michael Pentony, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281-9283, *Fax:* 978 281-9207, *Email:* michael.pentony@noaa.gov, *RIN:* 0648-BJ51

**67. Regulation To Reduce Incidental Bycatch and Mortality of Sea Turtles in the Southeastern U.S. Shrimp Fisheries**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 16 U.S.C. 1531 *et seq.*

*Abstract:* The National Marine Fisheries Service issues this action to amend the alternative tow time restriction to require all skimmer trawl vessels 40 feet and greater in length to use turtle excluder devices (TEDs) designed to exclude small sea turtles in their nets. The purpose of this rule is to reduce incidental bycatch and mortality of sea turtles in the southeastern U.S. shrimp fisheries, and to aid in the protection and recovery of listed sea turtle populations. We are also amending the definition of tow time to better clarify the intent and purpose of tow times to reduce sea turtle mortality, and we are refining additional portions of the TED requirements to avoid potential confusion.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/16/16	81 FR 91097
NPRM Comment Period End.	02/14/17	
Final Action .....	12/20/19	84 FR 70048
Final Action Effective.	04/01/21	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427-8400, *RIN:* 0648-BG45

**DEPARTMENT OF COMMERCE (DOC)**

*Patent and Trademark Office (PTO)*

Proposed Rule Stage

**68. Trademark Fee Adjustment**

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 35 U.S.C. 2; 15 U.S.C. 1113; 15 U.S.C. 1123; Pub. L. 112-29

*Abstract:* The United States Patent and Trademark Office (Office) takes this

action to set and adjust Trademark fee amounts to provide the Office with a sufficient amount of aggregate revenue to recover its aggregate cost of operations while helping the Office maintain a sustainable funding model, ensure integrity of the Trademark register, and promote efficiency of processes.

Timetable:

Action	Date	FR Cite
NPRM .....	06/19/20	85 FR 37040
Final Action .....	07/00/20	
NPRM Comment Period End.	08/03/20	
Final Action Effective.	09/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Catherine Cain, Trademark Manual of Examining Procedure Editor, Department of Commerce, Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313, Phone: 571 272-8946, Fax: 751

273-8946, Email: catherine.cain@uspto.gov.  
RIN: 0651-AD42

DEPARTMENT OF COMMERCE (DOC)

Patent and Trademark Office (PTO)

Final Rule Stage

69. Setting and Adjusting Patent Fees During Fiscal Year 2020

E.O. 13771 Designation: Fully or Partially Exempt.

Legal Authority: 35 U.S.C. 2(b)(2); 5 U.S.C. 500; 15 U.S.C. 1123; 35 U.S.C. 32; 35 U.S.C. 41; Pub. L. 113-227; 35 U.S.C. 3(a)(2)(A); 35 U.S.C. 21; 35 U.S.C. 23; 35 U.S.C. 134; 35 U.S.C. 135; Pub. L. 112-29; 35 U.S.C. 6; 35 U.S.C. 311; 35 U.S.C. 231; 35 U.S.C. 321-326; Pub. L. 112-274

Abstract: The USPTO operates like a business in that it fulfills requests for intellectual property products and services that are paid for by users of those services. The USPTO takes this

action to set and adjusts patent fee amounts to provide sufficient aggregate revenue to cover aggregate cost of operations.

Timetable:

Action	Date	FR Cite
NPRM .....	07/31/19	84 FR 37398
NPRM Comment Period End.	09/30/19	
Final Action .....	06/00/20	
Final Action Effective.	08/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brendan Hourigan, Director, Office of Planning and Budget, Department of Commerce, Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, Phone: 571 272-8966, Fax: 571 273-8966, Email: brendan.hourigan@uspto.gov.  
RIN: 0651-AD31

[FR Doc. 2020-16753 Filed 8-25-20; 8:45 am]  
BILLING CODE 6820-14-P



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part V

Department of Defense

---

Semiannual Regulatory Agenda

**DEPARTMENT OF DEFENSE****32 CFR Chs. I, V, VI, and VII****33 CFR Ch. II****36 CFR Ch. III****48 CFR Ch. II****Improving Government Regulations; Unified Agenda of Federal Regulatory and Deregulatory Actions****AGENCY:** Department of Defense (DoD).**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This agenda announces the proposed regulatory actions the Department of Defense (DOD) plans for the next 12 months and those completed since the fall 2019 agenda. It was developed under the guidelines of Executive Order 12866 "Regulatory Planning and Review," Executive Order 13771 "Reducing Regulation and Controlling Regulatory Costs," and Executive Order 13563 "Improving Regulation and Regulatory Review." This Agenda documents DOD's work under Executive Order 13777 "Enforcing the Regulatory Reform Agenda," and many regulatory actions support the recommendations of the DoD Regulatory Reform Task Force (as indicated in the individual rule abstracts). Members of the public may submit comments on individual proposed and interim final rulemakings at [www.regulations.gov](http://www.regulations.gov) during the comment period that follows publication in the **Federal Register**.

This agenda updates the report published on November 20, 2019, and includes regulations expected to be issued and under review over the next 12 months. The next agenda will publish in the fall of 2020.

The complete Unified Agenda will be available online at [www.reginfo.gov](http://www.reginfo.gov).

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), the Department of Defense's printed agenda entries include only:

(1) Rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Any rules that the Agency has identified for periodic review under

section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's agenda requirements. Additional information on these entries is in the Unified Agenda available online.

**FOR FURTHER INFORMATION CONTACT:** For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Ms. Patricia Toppings, telephone 571-372-0485, or write to Office of the Chief Management Officer, Directorate for Oversight and Compliance, Regulatory and Advisory Committee Division, 9010 Defense Pentagon, Washington, DC 20301-9010, or email: [patricia.l.toppings.civ@mail.mil](mailto:patricia.l.toppings.civ@mail.mil).

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, write to Office of the General Counsel, 1600 Defense Pentagon, Washington, DC 20301-1600, or call 703-693-9958.

For general information on Office of the Secretary regulations, other than those which are procurement-related, contact Ms. Morgan Park, telephone 571-372-0489, or write to Office of the Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Advisory Committee Division, 9010 Defense Pentagon, Washington, DC 20301-9010, or email: [morgan.e.park.civ@mail.mil](mailto:morgan.e.park.civ@mail.mil).

For general information on Office of the Secretary regulations which are procurement-related, contact Ms. Jennifer Hawes, telephone 571-372-6115, or write to Office of the Under Secretary of Defense for Acquisition and Sustainment, Defense Pricing and Contracting, Defense Acquisition Regulations System, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060, or email: [jennifer.l.hawes2.civ@mail.mil](mailto:jennifer.l.hawes2.civ@mail.mil).

For general information on Department of the Army regulations, contact Ms. Brenda Bowen, telephone 571-515-0206, or write to the U.S. Army Records Management and Declassification Agency, ATTN: AAHS-RDO, Building 1458, Suite NW6305, 9301 Chapek Road, Ft. Belvoir, VA 22060-5605, or email: [brenda.s.bowen.civ@mail.mil](mailto:brenda.s.bowen.civ@mail.mil).

For general information on the U.S. Army Corps of Engineers regulations, contact Ms. Stacey Jensen, telephone 703-695-6791, or write to Office of the

Assistant Secretary of the Army (Civil Works), 108 Army Pentagon, Room 3E441, Washington, DC 20310-0108, or email: [stacey.m.jensen.civ@mail.mil](mailto:stacey.m.jensen.civ@mail.mil).

For general information on Department of the Navy regulations, contact CDR Dominic Antenucci, telephone 703-614-7408, or write to Department of the Navy, Office of the Judge Advocate General, Administrative Law Division (Code 13), Washington Navy Yard, 1322 Patterson Avenue SE, Suite 3000, Washington, DC 20374-5066, or email: [dominic.antenucci@navy.mil](mailto:dominic.antenucci@navy.mil).

For general information on Department of the Air Force regulations, contact Bao-Anh Trinh, telephone 703-614-8500, or write the Office of the Secretary of the Air Force, Chief, Information Dominance/Chief Information Officer (SAF CIO/A6), 1800 Air Force Pentagon, Washington, DC 20330-1800, or email: [usaf.pentagon.saf-cio-a6.mbx.af-foia@mail.mil](mailto:usaf.pentagon.saf-cio-a6.mbx.af-foia@mail.mil).

For specific agenda items, contact the appropriate individual indicated for each regulatory action.

**SUPPLEMENTARY INFORMATION:** This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions reports on actions planned by the Office of the Secretary of Defense (OSD), the Military Departments, procurement-related actions, and actions planned by the U.S. Army Corps of Engineers.

This agenda also identifies rules impacted by the:

- a. Regulatory Flexibility Act;
- b. Paperwork Reduction Act of 1995;
- c. Unfunded Mandates Reform Act of 1995.

Generally, rules discussed in this agenda will contain five sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; (4) completed actions; and (5) long-term actions. Where certain regulatory actions indicate that small entities are affected, the effect on these entities may not necessarily have significant economic impact on a substantial number of these entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)).

The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 U.S.C. and section 3 of Executive Order 12866.

Dated: March 4, 2020.

**Hon. Lisa W. Hershman,**  
Chief Management Officer.



## DEFENSE ACQUISITION REGULATIONS COUNCIL—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
70 .....	Covered Telecommunications Equipment or Services (DFARS Case 2018–D022) .....	0750–AJ84

## DEFENSE ACQUISITION REGULATIONS COUNCIL—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
71 .....	Prompt Payments of Small Business Subcontractors (DFARS Case 2018–D068) .....	0750–AK25
72 .....	Nonmanufacturer Rule for 8(a) Participants (DFARS Case 2019–D004) .....	0750–AK39

## DEPARTMENT OF THE NAVY—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
73 .....	Professional Conduct of Attorneys Practicing Under the Cognizance and Supervision of the Judge Advocate General ( <b>Section 610 Review</b> ).	0703–AB19

## OFFICE OF ASSISTANT SECRETARY FOR HEALTH AFFAIRS—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
74 .....	Chiropractic and Acupuncture Treatment Under the TRICARE Program .....	0720–AB77

## DEPARTMENT OF DEFENSE (DOD)

## Defense Acquisition Regulations Council (DARC)

## Final Rule Stage

**70. Covered Telecommunications Equipment or Services (DFARS CASE 2018–D022)**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 41 U.S.C. 1303; Pub. L. 115–91, sec. 1656

*Abstract:* DoD is finalizing an interim rule that amended the Defense Federal Acquisition Regulation Supplement to implement section 1656 of the National Defense Authorization Act for Fiscal Year 2018. Section 1656 provides that DoD may not procure or obtain or extend or renew a contract to provide or obtain any equipment, system, or service to carry out the DoD nuclear deterrence mission or the DoD homeland defense mission that uses covered telecommunications equipment or services as a substantial or essential component of any system or as a critical technology as a part of any system. Covered telecommunications equipment or services means telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation, or any subsidiary or affiliate of such entities; telecommunication services provided by such entities or using such equipment; or telecommunications equipment or services produced or provided by an

entity that the Secretary of Defense reasonably believes to be an entity owned or controlled by, or otherwise connected to, the governments of China or Russia.

*Timetable:*

Action	Date	FR Cite
Interim Final Rule	12/31/19	84 FR 72231
Interim Final Rule Effective.	12/31/19	
Interim Final Rule Comment Period End.	03/02/20	
Final Action .....	06/00/20	
Final Action Effective.	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jennifer Hawes, Defense Acquisition Regulations System, Department of Defense, 3060 Defense Pentagon, Room 3B941, Washington, DC 20301–3060, *Phone:* 571 372–6115, *Email:* jennifer.l.hawes2.civ@mail.mil.

*RIN:* 0750–AJ84

## DEPARTMENT OF DEFENSE (DOD)

## Defense Acquisition Regulations Council (DARC)

## Completed Actions

**71. Prompt Payments of Small Business Subcontractors (DFARS CASE 2018–D068)**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 41 U.S.C. 1303; Pub. L. 115–232, sec. 852; 10 U.S.C. 2307

*Abstract:* DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 852 of the National Defense Authorization Act for Fiscal Year 2019, which requires accelerated payment dates for small business prime contractors and prime contractors that subcontract with small business concerns. This rule will amend the DFARS to require accelerated payment dates with a goal of 15 days after receipt of a proper invoice, if a specific payment date is not established by contract. In addition, prime contractors that have subcontracts with small businesses must agree to make payments to their small business subcontractors in accordance with the accelerated payment date, to the maximum extent practicable, without any further consideration from, or fees charged to, the subcontractor.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/31/19	84 FR 25225
NPRM Comment Period End.	07/30/19	
Final Action .....	04/08/20	85 FR 19692
Final Action Effective.	04/08/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jennifer Hawes, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B941, Washington, DC 20301-3060, *Phone:* 571 372-6115, *Email:* jennifer.l.hawes2.civ@mail.mil. *RIN:* 0750-AK25

## 72. Nonmanufacturer Rule for 8(a) Participants (DFARS Case 2019-D004)

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* Pub. L. 112-239, sec. 1651; 15 U.S.C. 657s

*Abstract:* DoD amended the Defense Federal Acquisition Regulation Supplement to implement the Small Business Administration's (SBA) final rule (see 81 FR 34243) for section 1651 of the National Defense Authorization Act for Fiscal Year (FY) 2013. Section 1651 revised the nonmanufacturer rule that applies to small business resellers, including participants in the Small Business Administration's 8(a) Business Development Program.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/01/19	84 FR 12187
NPRM Comment Period End.	05/31/19	
Final Action .....	10/31/19	84 FR 58334
Final Action Effective.	10/31/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jennifer Hawes, Defense Acquisition Regulations

System, Department of Defense, 3060 Defense Pentagon, Room 3B941, Washington, DC 20301-3060, *Phone:* 571 372-6115, *Email:* jennifer.l.hawes2.civ@mail.mil. *RIN:* 0750-AK39

## DEPARTMENT OF DEFENSE (DOD)

*Department of the Navy (NAVY)*

Final Rule Stage

### 73. Professional Conduct of Attorneys Practicing Under the Cognizance and Supervision of the Judge Advocate General (Section 610 Review)

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 10 U.S.C. 806; 10 U.S.C. 806a; 10 U.S.C. 826; 10 U.S.C. 827; 10 U.S.C. 1044; . . .

*Abstract:* This action will amend a Department of the Navy rule last revised November 27, 2015 (80 FR 73991) to remove internal content and conform the language to the current Judge Advocate General Instruction 5803.1E of the same name, available at [http://www.jag.navy.mil/library/instructions/JAGINST\\_5803-1E.pdf](http://www.jag.navy.mil/library/instructions/JAGINST_5803-1E.pdf). This amendment supports a recommendation of the DoD Regulatory Reform Task Force.

*Timetable:*

Action	Date	FR Cite
Final Action .....	10/00/20	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* CDR Dominic Antenucci, Department of Defense, Department of the Navy, Office of the Judge Advocate General, Administrative Law (Code 13), Pentagon, Room 4D641, Washington, DC 20350-1000, *Phone:* 703 614-7408.

*RIN:* 0703-AB19

## DEPARTMENT OF DEFENSE (DOD)

*Office of Assistant Secretary for Health Affairs (DODOASHA)*

Proposed Rule Stage

### 74. Chiropractic and Acupuncture Treatment Under the Tricare Program

*E.O. 13771 Designation:* Other.

*Legal Authority:* Not Yet Determined

*Abstract:* Under the current regulations, TRICARE excludes chiropractors as TRICARE-authorized providers whether or not their services would be eligible as medically necessary care if furnished by any other authorized provider. In addition, the current regulation excludes acupuncture treatment whether used as a therapeutic agent or as an anesthetic. This proposed rule seeks to eliminate these exclusions and to add benefit coverage of chiropractic and acupuncture treatment when deemed medically necessary for specific conditions. This proposed rule will add licensed Doctors of Chiropractic (DCs) and Licensed Acupuncturists (LACs) who meet established qualifications as TRICARE-authorized providers and will establish reimbursement rates and cost-sharing provisions for covered chiropractic and acupuncture treatment.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Joy Mullane, Department of Defense, Office of Assistant Secretary for Health Affairs, 16401 E. Centretech Parkway, Aurora, CO 80011-9066, *Phone:* 303 676-3457, *Fax:* 303 676-3579, *Email:* joy.mullane.civ@mail.mil. *RIN:* 0720-AB77

[FR Doc. 2020-16758 Filed 8-25-20; 8:45 am]

**BILLING CODE 6820-14-P**



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part VI

Department of Energy

---

Semiannual Regulatory Agenda

**DEPARTMENT OF ENERGY****10 CFR Chs. II, III, and X****48 CFR Ch. 9****Unified Agenda of Federal Regulatory and Deregulatory Actions****AGENCY:** Department of Energy.**ACTION:** Semi-annual regulatory agenda.

**SUMMARY:** The Department of Energy (DOE) has prepared and is making available its portion of the semi-annual Unified Agenda of Federal Regulatory and Deregulatory Actions (Agenda) pursuant to Executive Order 12866, “Regulatory Planning and Review,” and the Regulatory Flexibility Act. Contributions from the Office of Energy Efficiency and Renewable Energy (EERE), a significant regulatory office within the Department, include 49 test procedure and 61 energy conservation standard rulemakings at various stages of completion, *i.e.*, pre-rule, proposed rule, final rule, long term actions, and completed actions stages. EERE has completed nine actions, which include seven energy conservation standard rulemakings. EERE is also pursuing 40 proposed rulemakings (17 test

procedure and 12 energy conservation standard rulemakings), and is in the process of finalizing 14 rulemakings (8 test procedure and 2 energy conservation standards). DOE’s agenda submission also lists contributions from other DOE offices that included 2 completed actions, 10 rulemaking proposals, and 5 rules in the final stages of the rulemaking process.

**SUPPLEMENTARY INFORMATION:** The Agenda is a government-wide compilation of upcoming and ongoing regulatory activity, including a brief description of each rulemaking and a timetable for action. The Agenda also includes a list of regulatory actions completed since publication of the last Agenda. The Department of Energy’s portion of the Agenda includes regulatory actions called for by the Energy Policy and Conservation Act of 1975, as amended, and programmatic needs of DOE offices.

The internet is the basic means for disseminating the Agenda and providing users the ability to obtain information from the Agenda database. DOE’s Spring 2020 Agenda can be accessed online by going to [www.reginfo.gov](http://www.reginfo.gov).

DOE’s regulatory flexibility agenda is made up of rulemakings setting energy efficiency standards and requirements applicable to DOE sites.

**Signing Authority**

This document of the Department of Energy was signed on July 10, 2020, by William S. Cooper, General Counsel, Office of the General Counsel, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 11, 2020.

**Treena V. Garrett**

*Federal Register Liaison Officer, U.S. Department of Energy.*

**ENERGY EFFICIENCY AND RENEWABLE ENERGY—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
75 .....	Energy Conservation Standards for General Service Lamps .....	1904–AD09
76 .....	Energy Conservation Standards for Residential Conventional Cooking Products .....	1904–AD15
77 .....	Energy Conservation Standards for Residential Non-Weatherized Gas Furnaces and Mobile Home Gas Furnaces.	1904–AD20
78 .....	Energy Conservation Standards for Commercial Water Heating Equipment .....	1904–AD34

**ENERGY EFFICIENCY AND RENEWABLE ENERGY—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
79 .....	Energy Conservation Standards for Commercial Packaged Boilers .....	1904–AD01

**DEPARTMENT OF ENERGY (DOE)**

*Energy Efficiency and Renewable Energy (EE)*

Proposed Rule Stage

**75. Energy Conservation Standards for General Service Lamps**

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 42 U.S.C. 6295(i)(6)(A)

*Abstract:* The U.S. Department of Energy (DOE) will issue a Supplemental Notice of Proposed Rulemaking that includes a proposed determination with respect to whether to amend or adopt standards for general service light-

emitting diode (LED) lamps and that may include a proposed determination with respect to whether to amend or adopt standards for compact fluorescent lamps.

*Timetable:*

Action	Date	FR Cite
Framework Document Availability; Notice of Public Meeting.	12/09/13	78 FR 73737
Framework Document Comment Period End.	01/23/14	

Action	Date	FR Cite
Framework Document Comment Period Extended.	01/23/14	79 FR 3742
Framework Document Comment Period Extended End.	02/07/14	
Preliminary Analysis and Notice of Public Meeting.	12/11/14	79 FR 73503
Preliminary Analysis Comment Period Extended.	01/30/15	80 FR 5052

Action	Date	FR Cite
Preliminary Analysis Comment Period Extended End.	02/23/15	
Notice of Public Meeting; Webinar.	03/15/16	81 FR 13763
NPRM .....	03/17/16	81 FR 14528
NPRM Comment Period End.	05/16/16	
Notice of Public Meeting; Webinar.	10/05/16	81 FR 69009
Proposed Definition and Data Availability.	10/18/16	81 FR 71794
Proposed Definition and Data Availability Comment Period End.	11/08/16	
Final Rule Adopting a Definition for GSL.	01/19/17	82 FR 7276
Final Rule Adopting a Definition for GSL Effective.	01/01/20	
Final Rule Adopting a Definition for GSL Including IRL.	01/19/17	82 FR 7322
Final Rule Adopting a Definition for GSL Including IRL Effective.	01/01/20	
Supplemental NPRM.	12/00/20	

#### Regulatory Flexibility Analysis

Required: Yes.

*Agency Contact:* Lucy deButts, Buildings Technologies Office, EE-5B, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, Washington, DC 20585, *Phone:* 202 287-1604, *Email:* lucy.debutts@ee.doe.gov.

*RIN:* 1904-AD09

#### 76. Energy Conservation Standards for Residential Conventional Cooking Products

*E.O. 13771 Designation:* Regulatory. *Legal Authority:* 42 U.S.C. 6295(m)(1); 42 U.S.C. 6292 (a)(10); 42 U.S.C. 6295(h)

*Abstract:* The Energy Policy and Conservation Act (EPCA), as amended by Energy Independence and Security Act of 2007 (EISA), requires the Secretary to determine whether updating the statutory energy conservation standards for residential conventional cooking products would yield a significant savings in energy use and is technologically feasible and economically justified. The U.S. Department of Energy (DOE) is reviewing the current standards to make such determination.

#### Timetable:

Action	Date	FR Cite
Request for Information (RFI).	02/12/14	79 FR 8337
RFI Comment Period End.	03/14/14	
RFI Comment Period Extended.	03/03/14	79 FR 11714
RFI Comment Period Extended End.	04/14/14	
NPRM and Public Meeting.	06/10/15	80 FR 33030
NPRM Comment Period Extended.	07/30/15	80 FR 45452
NPRM Comment Period Extended End.	09/09/15	
Supplemental NPRM.	09/02/16	81 FR 60784
SNPRM Comment Period Extended.	09/30/16	81 FR 67219
SNPRM Comment Period Extended End.	11/02/16	
Supplemental NPRM/Proposed Determination.	08/00/20	

#### Regulatory Flexibility Analysis

Required: Yes.

*Agency Contact:* Stephanie Johnson, General Engineer, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, Building Technologies Office, EE5B, Washington, DC 20002, *Phone:* 202 287-1943, *Email:* stephanie.johnson@ee.doe.gov.

*RIN:* 1904-AD15

#### 77. Energy Conservation Standards for Residential Non-Weatherized Gas Furnaces and Mobile Home Gas Furnaces

*E.O. 13771 Designation:* Regulatory. *Legal Authority:* 42 U.S.C.

6295(f)(4)(C); 42 U.S.C. 6295(m)(1); 42 U.S.C. 6295(gg)(3)

*Abstract:* The Energy Policy and Conservation Act, as amended, (EPCA) prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including residential furnaces. EPCA also requires the U.S. Department of Energy (DOE) to determine whether more stringent amended standards would be technologically feasible and economically justified and would save a significant amount of energy. DOE is considering amendments to its energy conservation standards for residential non-weatherized gas furnaces and mobile home gas furnaces in partial fulfillment of a court-ordered remand of

DOE's 2011 rulemaking for these products.

#### Timetable:

Action	Date	FR Cite
Notice of Public Meeting.	10/30/14	79 FR 64517
NPRM and Notice of Public Meeting.	03/12/15	80 FR 13120
NPRM Comment Period Extended.	05/20/15	80 FR 28851
NPRM Comment Period Extended End.	07/10/15	
Notice of Data Availability (NODA).	09/14/15	80 FR 55038
NODA Comment Period End.	10/14/15	
NODA Comment Period Reopened.	10/23/15	80 FR 64370
NODA Comment Period Reopened End.	11/06/15	
Supplemental NPRM and Notice of Public Meeting.	09/23/16	81 FR 65720
Supplemental NPRM Comment Period End.	11/22/16	
SNPRM Comment Period Reopened.	12/05/16	81 FR 87493
SNPRM Comment Period End.	01/06/17	
Supplemental NPRM.	12/00/20	

#### Regulatory Flexibility Analysis

Required: Yes.

*Agency Contact:* John Cymbalsky, Building Technologies Office, EE-5B, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, Washington, DC 20585, *Phone:* 202 287-1692, *Email:* john.cymbalsky@ee.doe.gov.

*RIN:* 1904-AD20

#### 78. Energy Conservation Standards for Commercial Water Heating Equipment

*E.O. 13771 Designation:* Regulatory. *Legal Authority:* 42 U.S.C.

6313(a)(6)(C)(i) and (vi)

*Abstract:* Once completed, this rulemaking will fulfill the U.S. Department of Energy's (DOE) statutory obligation under the Energy Policy and Conservation Act, as amended, (EPCA) to either propose amended energy conservation standards for commercial water heaters and hot water supply boilers, or determine that the existing standards do not need to be amended. (Unfired hot water storage tanks and commercial heat pump water heaters are being considered in a separate

rulemaking.) DOE must determine whether national standards more stringent than those that are currently in place would result in a significant additional amount of energy savings and whether such amended national standards would be technologically feasible and economically justified.

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	10/21/14	79 FR 62899
RFI Comment Period End.	11/20/14	
NPRM ..... NPRM Comment Period End.	05/31/16 08/01/16	81 FR 34440
NPRM Comment Period Re-opened.	08/05/16	81 FR 51812
NPRM Comment Period Re-opened End.	08/30/16	
Notice of Data Availability (NODA).	12/23/16	81 FR 94234
NODA Comment Period End.	01/09/17	
Supplemental NPRM/Proposed Determination.	06/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Catherine Rivest, General Engineer, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, Building Technologies Office, EE-5B, Washington, DC 20585, Phone: 202 586-7335, Email: catherine.rivest@ee.doe.gov.

*RIN:* 1904-AD34

**DEPARTMENT OF ENERGY (DOE)**

*Energy Efficiency and Renewable Energy (EE)*

Completed Actions

**79. Energy Conservation Standards for Commercial Packaged Boilers**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 42 U.S.C. 6313(a)(6)(C); 42 U.S.C. 6311(11)(B)  
*Abstract:* The Energy Policy and Conservation Act (EPCA), as amended by the American Energy Manufacturing Technical Corrections Act (AEMTCA), requires the Secretary to determine whether updating the statutory energy conservation standards for commercial packaged boilers is technically feasible

and economically justified and would save a significant amount of energy. If justified, the Secretary will issue amended energy conservation standards for such equipment. The U.S. Department of Energy (DOE) last updated the standards for commercial packaged boilers on July 22, 2009. DOE published a NOPR pursuant to the 6-year-look-back requirement on March 26, 2016. The Department's final rule adopted more-stringent energy conservation standards for certain commercial packaged boilers.

*Completed:*

Reason	Date	FR Cite
Final Action .....	01/10/20	85 FR 1592
Final Action Effective.	03/10/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Catherine Rivest, Phone: 202 586-7335, Email: catherine.rivest@ee.doe.gov.

*RIN:* 1904-AD01

[FR Doc. 2020-17821 Filed 8-25-20; 8:45 am]

**BILLING CODE 6820-14-P**



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part VII

Department of Health and Human Services

---

Semiannual Regulatory Agenda

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Office of the Secretary****21 CFR Ch. I****25 CFR Ch. V****42 CFR Chs. I–V****45 CFR Subtitle A; Subtitle B, Chs. II, III, and XIII****Regulatory Agenda****AGENCY:** Office of the Secretary, HHS.**ACTION:** Semiannual Regulatory Agenda.

**SUMMARY:** The Regulatory Flexibility Act of 1980 and Executive Order (E.O.) 12866 require the semiannual issuance of an inventory of rulemaking actions under development throughout the Department, offering for public review summarized information about forthcoming regulatory actions.

**FOR FURTHER INFORMATION CONTACT:** Ann C. Agnew, Executive Secretary,

Department of Health and Human Services, 200 Independence Avenue SW, Washington, DC 20201; (202) 690–5627.

**SUPPLEMENTARY INFORMATION:** The Department of Health and Human Services (HHS) is the Federal government's lead agency for protecting the health of all Americans and providing essential human services, especially for those who are least able to help themselves. HHS enhances the health and well-being of Americans by promoting effective health and human services and by fostering sound, sustained advances in the sciences underlying medicine, public health, and social services.

This Agenda presents the regulatory activities that the Department expects to undertake in the foreseeable future to advance this mission. HHS has an agency-wide effort to support the Agenda's purpose of encouraging more effective public participation in the regulatory process. For example, to encourage public participation, we regularly update our regulatory web

page (<http://www.HHS.gov/regulations>) which includes links to HHS rules currently open for public comment, and also provides a “regulations toolkit” with background information on regulations, the commenting process, how public comments influence the development of a rule, and how the public can provide effective comments. HHS also actively encourages meaningful public participation in its retrospective review of regulations, through a comment form on the HHS retrospective review web page (<http://www.HHS.gov/RetrospectiveReview>).

The rulemaking abstracts included in this paper issue of the **Federal Register** cover, as required by the Regulatory Flexibility Act of 1980, those prospective HHS rulemakings likely to have a significant economic impact on a substantial number of small entities. The Department's complete Regulatory Agenda is accessible online at <http://www.RegInfo.gov>.

**Ann C. Agnew,**

*Executive Secretary to the Department.*

**OFFICE OF THE SECRETARY—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
80 .....	Limiting the Effect of Exclusions Implemented Under the Social Security Act ( <b>Rulemaking Resulting From a Section 610 Review</b> ).	0991–AC11

**OFFICE FOR CIVIL RIGHTS—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
81 .....	Nondiscrimination in Health and Health Education Programs or Activities .....	0945–AA11

**OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
82 .....	21st Century Cures Act: Interoperability, Information Blocking, and the ONC Health IT Certification Program.	0955–AA01

**FOOD AND DRUG ADMINISTRATION—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
83 .....	Postmarketing Safety Reporting Requirements for Human Drug and Biological Products .....	0910–AA97
84 .....	Over-the-Counter (OTC) Drug Review—Cough/Cold (Antihistamine) Products .....	0910–AF31
85 .....	Medication Guide; Patient Medication Information .....	0910–AH68
86 .....	Requirements for Tobacco Product Manufacturing Practice .....	0910–AH91
87 .....	Nutrient Content Claims, Definition of Term: Healthy .....	0910–AI13
88 .....	Revocation of Uses of Partially Hydrogenated Oils in Foods .....	0910–AI15



## FOOD AND DRUG ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
89 .....	Sunlamp Products; Amendment to the Performance Standard .....	0910–AG30
90 .....	Food Labeling; Gluten-Free Labeling of Fermented or Hydrolyzed Foods .....	0910–AH00
91 .....	Mammography Quality Standards Act .....	0910–AH04
92 .....	General and Plastic Surgery Devices: Restricted Sale, Distribution, and Use of Sunlamp Products .....	0910–AH14
93 .....	Amendments to the List of Bulk Drug Substances That Can Be Used To Compound Drug Products in Accordance With Section 503A of the Federal Food, Drug, and Cosmetic Act.	0910–AH81
94 .....	Milk and Cream Product and Yogurt Products, Final Rule to Revoke the Standards for Lowfat Yogurt and Nonfat Yogurt and to Amend the Standard for Yogurt.	0910–AI40

## FOOD AND DRUG ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
95 .....	Acute Nicotine Toxicity Warnings for E-Liquids .....	0910–AH24
96 .....	Testing Standards for Batteries and Battery Management Systems in Battery-Operated Tobacco Products	0910–AH90
97 .....	Administrative Detention of Tobacco Products .....	0910–AI05

## FOOD AND DRUG ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
98 .....	Over-the-Counter (OTC) Drug Review—External Analgesic Products .....	0910–AF35
99 .....	Over-the-Counter (OTC) Drug Review—Internal Analgesic Products .....	0910–AF36
100 .....	Sunscreen Drug Products For Over-The-Counter-Human Use; Final Monograph .....	0910–AF43
101 .....	Over-the-Counter (OTC) Drug Review—Pediatric Dosing for Cough/Cold Products .....	0910–AG12
102 .....	Required Warnings for Cigarette Packages and Advertisements .....	0910–AI39

## CENTERS FOR MEDICARE &amp; MEDICAID SERVICES—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
103 .....	Reporting of Crimes Occurring in Federally Funded Long Term Care Facilities and Enforcement Under Section 1150B of the Social Security Act (CMS–3359).	0938–AT60
104 .....	International Pricing Index Model For Medicare Part B Drugs (CMS–5528) ( <b>Section 610 Review</b> ) .....	0938–AT91
105 .....	FY 2021 Inpatient Rehabilitation Facility (IRF) Prospective Payment System Rate Update (CMS–1729) ....	0938–AU05
106 .....	CY 2021 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS–1734) ( <b>Section 610 Review</b> ).	0938–AU10
107 .....	Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals; the Long-Term Care Hospital Prospective Payment System; and FY 2021 Rates (CMS–1735) ( <b>Section 610 Review</b> ).	0938–AU11
108 .....	CY 2021 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS–1736) ( <b>Section 610 Review</b> ).	0938–AU12
109 .....	Payment Policies for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) (CMS–1738).	0938–AU17

## CENTERS FOR MEDICARE &amp; MEDICAID SERVICES—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
110 .....	Durable Medical Equipment Fee Schedule, Adjustments to Resume the Transitional 50/50 Blended Rates to Provide Relief in Non-Competitive Bidding Areas (CMS–1687) ( <b>Section 610 Review</b> ).	0938–AT21
111 .....	Requirements for Long-Term Care Facilities: Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction (CMS–3347) ( <b>Section 610 Review</b> ).	0938–AT36
112 .....	Organ Procurement Organizations (OPOs) (CMS–3380) ( <b>Section 610 Review</b> ) .....	0938–AU02

## CENTERS FOR MEDICARE &amp; MEDICAID SERVICES—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
113 .....	CY 2020 Home Health Prospective Payment System Rate Update and Quality Reporting Requirements (CMS–1711) ( <b>Completion of a Section 610 Review</b> ).	0938–AT68
114 .....	CY 2020 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS–1715) ( <b>Completion of a Section 610 Review</b> ).	0938–AT72

## CENTERS FOR MEDICARE &amp; MEDICAID SERVICES—COMPLETED ACTIONS—Continued

Sequence No.	Title	Regulation Identifier No.
115 .....	CY 2020 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS–1717) ( <b>Completion of a Section 610 Review</b> ).	0938–AT74

**DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)***Office of the Secretary (OS)*

Proposed Rule Stage

**80. Limiting the Effect of Exclusions Implemented Under the Social Security Act (Rulemaking Resulting From a Section 610 Review)**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 5 U.S.C. 301; 31 U.S.C. 6101

*Abstract:* Exclusions implemented under the Social Security Act prevent individuals convicted of certain crimes or individuals whose health care licenses have been revoked from participating in Federal health care programs. Instead of only being barred from participating in all Federal healthcare programs, certain regulatory provisions have resulted in these type of exclusion actions being given an overly broad government-wide effect, and excluded parties have been barred from participating in all Federal procurement and non-procurement actions. However, because Social Security Act exclusions are not issued under an agency's suspension and debarment authority, they do not stop individuals from participating in all Federal procurement and non-procurement actions. For an agency to bar individuals from participating in all procurement and non-procurement activities, it must exercise its suspension and debarment authority under the Federal Acquisition Regulation or the Nonprocurement Common Rule. This rulemaking would remove the regulatory provisions at issue, in order to align the regulation with the intent of the Social Security Act and current practice.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Tiffani Redding, Program Analyst, Department of Health and Human Services, Office of the Secretary, 200 Independence Avenue SW, Washington, DC 20201, Phone: 202 205–4321, Email: tiffani.redding@hhs.gov.

RIN: 0991–AC11

**DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)***Office for Civil Rights (OCR)*

Final Rule Stage

**81. Nondiscrimination in Health and Health Education Programs or Activities**

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* Sec. 1557 of the Patient Protection and Affordable Care Act (42 U.S.C. 18116)

*Abstract:* This rulemaking would finalize, with appropriate changes in response to public comments, the proposed rule implementing section 1557 of the Patient Protection and Affordable Care Act (PPACA), and conforming amendments to related HHS rules. Section 1557 of PPACA prohibits discrimination on the basis of race, color, national origin, sex, age, or disability under any health program or activity, any part of which is receiving Federal financial assistance, including credits, subsidies, or contracts of insurance, or under any program or activity that is administered by an Executive Agency or any entity established under title 1 of the PPACA.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/14/19	84 FR 27846
NPRM Comment Period End.	08/13/19	
Final Action .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Luben Montoya, Section Chief, Civil Rights Division, Department of Health and Human Services, Office for Civil Rights, 200 Independence Avenue SW, Washington, DC 20201, Phone: 800 368–1019, TDD Phone: 800 537–7697, Email: ocrmail@hhs.gov.

RIN: 0945–AA11

**DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)***Office of the National Coordinator for Health Information Technology (ONC)*

Final Rule Stage

**82. 21st Century Cures Act: Interoperability, Information Blocking, and the ONC Health IT Certification Program**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* Pub. L. 114–255

*Abstract:* The rulemaking would implement certain provisions of the 21st Century Cures Act, including conditions and maintenance of certification requirements for health information technology (IT) developers under the ONC Health IT Certification Program (Program), the voluntary certification of health IT for use by pediatric healthcare providers and reasonable and necessary activities that do not constitute information blocking. The rulemaking would also modify the 2015 Edition health IT certification criteria and Program in additional ways to advance interoperability, enhance health IT certification, and reduce burden and costs.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/04/19	84 FR 7424
NPRM Comment Period Extended.	04/23/19	84 FR 16834
NPRM Comment Period End.	05/03/19	
NPRM Comment Period Extended End.	06/03/19	
Final Action .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael Lipinski, Director, Regulatory Affairs Division, Department of Health and Human Services, Office of the National Coordinator for Health Information Technology, Mary E. Switzer Building, 330 C Street SW, Washington, DC 20201, Phone: 202 690–7151.

RIN: 0955–AA01

**DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)***Food and Drug Administration (FDA)*

Proposed Rule Stage

**83. Postmarketing Safety Reporting Requirements for Human Drug and Biological Products***E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 42 U.S.C. 216; 42 U.S.C. 241; 42 U.S.C. 242a; 42 U.S.C. 262 and 263; 42 U.S.C. 263a; 42 U.S.C. 264; 42 U.S.C. 300aa–25; 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 360b to 360f; 21 U.S.C. 360i to 360j; 21 U.S.C. 371; 21 U.S.C. 374; 21 U.S.C. 379

*Abstract:* The proposed rule would amend the postmarketing safety reporting regulations for human drugs and biological products including blood and blood products in order to better align FDA requirements with guidelines of the International Council on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH), and to update reporting requirements in light of current pharmacovigilance practice and safety information sources and enhance the quality of safety reports received by FDA. Revisions to the postmarketing safety reporting requirements were proposed as part of a single rulemaking (68 FR 12406) to clarify and revise both premarketing and postmarketing safety reporting requirements for human drug and biological products. FDA is reproposing the proposed postmarketing requirements with revisions. Premarketing safety reporting requirements were finalized in a separate final rule published on September 29, 2010 (75 FR 59961).

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/14/03	68 FR 12406
NPRM Comment Period Extended.	06/18/03	
NPRM Comment Period End.	07/14/03	
NPRM Comment Period Extension End.	10/14/03	
Reproposing NPRM.	12/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jane E. Baluss, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 51, Room 6278, 10903 New Hampshire Avenue,

Silver Spring, MD 20993–0002, *Phone:* 301 796–3469, *Fax:* 301 847–8440, *Email:* jane.baluss@fda.hhs.gov.  
*RIN:* 0910–AA97

**84. Over-the-Counter (OTC) Drug Review—Cough/Cold (Antihistamine) Products***E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 21 U.S.C. 321p; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 371

*Abstract:* FDA will be proposing a rule to add the common cold indication to certain over-the-counter (OTC) antihistamine active ingredients. This proposed rule is the result of collaboration under the U.S. Canada Regulatory Cooperation Council as part of efforts to reduce unnecessary duplication and differences. This pilot exercise will help determine the feasibility of developing an ongoing mechanism for alignment in review and adoption of certain aspects of the OTC Drug Review.

*Timetable:*

Action	Date	FR Cite
Reopening of Administrative Record.	08/25/00	65 FR 51780
Comment Period End.	11/24/00	
NPRM (Amendment) (Common Cold).	12/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Janice Adams-King, Regulatory Health Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 22, Room 5416, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–3713, *Fax:* 301 796–9899, *Email:* janice.adams-king@fda.hhs.gov.  
*RIN:* 0910–AF31

**85. Medication Guide; Patient Medication Information***E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 21 U.S.C. 321 et seq.; 42 U.S.C. 262; 42 U.S.C. 264; 21 U.S.C. 371

*Abstract:* The proposed rule would amend FDA medication guide regulations to require a new form of patient labeling, Patient Medication Information, for submission to and review by the FDA for human prescription drug products and certain blood products used, dispensed, or administered on an outpatient basis. The proposed rule would include requirements for Patient Medication

Information development and distribution. The proposed rule would require clear and concisely written prescription drug product information presented in a consistent and easily understood format to help patients use their prescription drug products safely and effectively.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Chris Wheeler, Supervisory Project Manager, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, Building 51, Room 3330, Silver Spring, MD 20993, *Phone:* 301 796–0151, *Email:* chris.wheeler@fda.hhs.gov.  
*RIN:* 0910–AH68

**86. Requirements for Tobacco Product Manufacturing Practice***E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 21 U.S.C. 371; 21 U.S.C. 387b; 21 U.S.C. 387f

*Abstract:* The rule is proposing to establish tobacco product manufacturing practice (TPMP) requirements for manufacturers of finished and bulk tobacco products. This proposed rule, if finalized, would set forth requirements for the manufacture, pre-production design validation, packing, and storage of a tobacco product. This proposal would help prevent the manufacture and distribution of contaminated and otherwise nonconforming tobacco products. This proposed rule provides manufacturers with flexibility in the manner in which they comply with the proposed requirements while giving FDA the ability to enforce regulatory requirements, thus helping to assure the protection of public health.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Matthew Brenner, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Tobacco Products, 10903 New Hampshire Avenue, Building 71, Room G335, Silver Spring, MD 20993, *Phone:* 877 287–1373, *Fax:* 240 276–3904, *Email:* ctpregulations@fda.hhs.gov.  
*RIN:* 0910–AH91

**87. Nutrient Content Claims, Definition of Term: Healthy**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 343; 21 U.S.C. 371

*Abstract:* The proposed rule would update the definition for the implied nutrient content claim “healthy” to be consistent with current nutrition science and federal dietary guidelines. The proposed rule would revise the requirements for when the claim “healthy” can be voluntarily used in the labeling of human food products so that the claim reflects current science and dietary guidelines and helps consumers maintain healthy dietary practices.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Vincent De Jesus, Nutritionist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, (HFS-830), Room 3D-031, 5100 Paint Branch Parkway, College Park, MD 20740, *Phone:* 240 402-1774, *Fax:* 301 436-1191, *Email:* vincent.dejesus@fda.hhs.gov.

*RIN:* 0910-AI13

**88. Revocation of Uses of Partially Hydrogenated Oils in Foods**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 341; 21 U.S.C. 342; 21 U.S.C. 343; 21 U.S.C. 348; 21 U.S.C. 371; 21 U.S.C. 379e

*Abstract:* In the **Federal Register** of June 17, 2015 (80 FR 34650), we published a declaratory order announcing our final determination that there is no longer a consensus among qualified experts that partially hydrogenated oils (PHOs) are generally recognized as safe (GRAS) for any use in human food. In the **Federal Register** of May 21, 2018 (83 FR 23382), we denied a food additive petition requesting that the food additive regulations be amended to provide for the safe use of PHOs in certain food applications. We are now proposing to update our regulations to remove all mention of partially hydrogenated oils from FDA’s GRAS regulations and as an optional ingredient in standards of identity. We are also proposing to revoke all prior sanctions for uses of PHOs in food.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Ellen Anderson, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, HFS-265, 4300 River Road, College Park, MD 20740, *Phone:* 240 402-1309, *Email:* ellen.anderson@fda.hhs.gov. *RIN:* 0910-AI15

**DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)**

*Food and Drug Administration (FDA)*

Final Rule Stage

**89. Sunlamp Products; Amendment to the Performance Standard**

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 21 U.S.C. 360ii; 21 U.S.C. 360kk; 21 U.S.C. 393; 21 U.S.C. 371

*Abstract:* FDA is updating the performance standard for sunlamp products and ultraviolet lamps for use in these products to improve safety, reflect new scientific information, and work towards harmonization with international standards. By harmonizing with the International Electrotechnical Commission, this rule will decrease the regulatory burden on industry and allow the Agency to take advantage of the expertise of the international committees, thereby also saving resources.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/22/15	80 FR 79505
NPRM Comment Period End.	03/21/16	
Final Rule .....	09/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Ian Ostermiller, Regulatory Counsel, Center for Devices and Radiological Health, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, WO 66, Room 5454, Silver Spring, MD 20993, *Phone:* 301 796-5678, *Email:* ian.ostermiller@fda.hhs.gov. *RIN:* 0910-AG30

**90. Food Labeling; Gluten-Free Labeling of Fermented or Hydrolyzed Foods**

*E.O. 13771 Designation:* Regulatory. *Legal Authority:* Sec. 206 of the Food Allergen Labeling and Consumer

Protection Act; 21 U.S.C. 343(a)(1); 21 U.S.C. 321(n); 21 U.S.C. 371(a)

*Abstract:* This final rule would establish requirements concerning “gluten-free” labeling for foods that are fermented or hydrolyzed or that contain fermented or hydrolyzed ingredients. These additional requirements for the “gluten-free” labeling rule are needed to help ensure that individuals with celiac disease are not misled and receive truthful and accurate information with respect to fermented or hydrolyzed foods labeled as “gluten-free.”

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/18/15	80 FR 71990
NPRM Comment Period Re-opened.	01/22/16	81 FR 3751
NPRM Comment Period End.	02/16/16	
NPRM Comment Period Re-opened End.	02/22/16	
NPRM Comment Period Re-opened.	02/23/16	81 FR 8869
NPRM Comment Period Re-opened End.	04/25/16	
Final Rule .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Carol D’Lima, Staff Fellow, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, Room 4D022, HFS 820, 5001 Campus Drive, College Park, MD 20740, *Phone:* 240 402-2371, *Fax:* 301 436-2636, *Email:* carol.dlima@fda.hhs.gov.

*RIN:* 0910-AH00

**91. Mammography Quality Standards Act**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 21 U.S.C. 360i; 21 U.S.C. 360nn; 21 U.S.C. 374(e); 42 U.S.C. 263b

*Abstract:* FDA is amending its regulations governing mammography. The amendments will update the regulations issued under the Mammography Quality Standards Act of 1992 (MQSA) and the Federal Food, Drug, and Cosmetic Act (FD&C Act). FDA is taking this action to address changes in mammography technology and mammography processes that have occurred since the regulations were published in 1997 and to address breast density reporting to patient and healthcare providers.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/28/19	84 FR 11669
NPRM Comment Period End.	06/26/19	
Final Rule .....	09/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Erica Payne, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health, 10903 New Hampshire Avenue, WO 66, Room 5517, Silver Spring, MD 20993, *Phone:* 301 796-3999, *Fax:* 301 847-8145, *Email:* erica.payne@fda.hhs.gov.

*RIN:* 0910-AH04

## 92. General and Plastic Surgery Devices: Restricted Sale, Distribution, and Use of Sunlamp Products

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 21 U.S.C. 360j(e)

*Abstract:* This rule will apply device restrictions to sunlamp products. Sunlamp products include ultraviolet (UV) lamps and UV tanning beds and booths. The incidence of skin cancer, including melanoma, has been increasing, and a large number of skin cancer cases are attributable to the use of sunlamp products. The devices may cause about 400,000 cases of skin cancer per year, and 6,000 of which are melanoma. Beginning use of sunlamp products at young ages, as well as frequently using sunlamp products, both increases the risk of developing skin cancers and other illnesses, and sustaining other injuries. Even infrequent use, particularly at younger ages, can significantly increase these risks.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/22/15	80 FR 79493
NPRM Comment Period End.	03/21/16	
Final Rule .....	04/00/21	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Ian Ostermiller, Regulatory Counsel, Center for Devices and Radiological Health, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, WO 66, Room 5454, Silver Spring, MD 20993, *Phone:* 301 796-5678, *Email:* ian.ostermiller@fda.hhs.gov.

*RIN:* 0910-AH14

## 93. Amendments to the List of Bulk Drug Substances That Can Be Used To Compound Drug Products in Accordance With Section 503a of the Federal Food, Drug, and Cosmetic Act

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 21 U.S.C. 351; 21 U.S.C. 352; 21 U.S.C. 353a; 21 U.S.C. 355; 21 U.S.C. 371; . . .

*Abstract:* FDA has issued a regulation creating a list of bulk drug substances (active pharmaceutical ingredients) that can be used to compound drug products in accordance with section 503A of the Federal Food, Drug, and Cosmetic Act (FD&C Act), although they are neither the subject of an applicable United States Pharmacopeia (USP) or National Formulary (NF) monograph nor components of FDA-approved drugs (the 503A Bulks List). The final rule will amend the 503A Bulks List by placing five additional bulk drug substances on the list. This rule will also identify 26 bulk drug substances that FDA has considered and decided not to include on the 503A Bulks List. Additional substances nominated by the public for inclusion on this list are currently under consideration and will be the subject of a future rulemaking.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/05/19	84 FR 46688
NPRM Comment Period End.	12/04/19	
Final Rule .....	12/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Rosilend Lawson, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, Building 51, Room 5197, Silver Spring, MD 20993, *Phone:* 240 402-6223, *Email:* rosilend.lawson@fda.hhs.gov.

*RIN:* 0910-AH81

## 94. Milk and Cream Product and Yogurt Products, Final Rule To Revoke the Standards for Lowfat Yogurt and Nonfat Yogurt and To Amend the Standard for Yogurt

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 336; 21 U.S.C. 341; 21 U.S.C. 343; 21 U.S.C. 348; 21 U.S.C. 371(e); 21 U.S.C. 379e

*Abstract:* This final rule amends the standard of identity for yogurt and revokes the standards of identity for lowfat yogurt and nonfat yogurt. It modernizes the standard for yogurt to

allow for technological advances, to preserve the basic nature and essential characteristics of yogurt, and to promote honesty and fair dealing in the interest of consumers. Section 701(e)(1), of the Federal Food, Drug, and Cosmetic Act requires that the amendment or repeal of the definition and standard of identity for a dairy product proceed under a formal rulemaking process. Such is consistent with the formal rulemaking provisions of the Administrative Procedures Act (5 U.S.C. 556 and 557). Although, standard practice is not to include formal rulemaking in the Unified Agenda, this rule is included to highlight the de-regulatory work in this space.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	07/03/03	68 FR 39873
ANPRM Comment Period End.	10/01/03	
NPRM .....	01/15/09	74 FR 2443
NPRM Comment Period End.	04/29/09	
Final Rule .....	08/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Terri Wenger, Food Technologist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, 5001 Campus Drive, College Park, MD 20740, *Phone:* 240 402-2371, *Email:* terri.wenger@fda.hhs.gov.

*RIN:* 0910-AI40

## DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

*Food and Drug Administration (FDA)*

Long-Term Actions

## 95. Acute Nicotine Toxicity Warnings for E-Liquids

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 21 U.S.C. 301 *et seq.*; 21 U.S.C. 331; 21 U.S.C. 371; 21 U.S.C. 374; 21 U.S.C. 387

*Abstract:* This rule would establish nicotine exposure warning requirements for liquid nicotine and nicotine-containing e-liquid(s) that are made or derived from tobacco and intended for human consumption, and potentially for other tobacco products including, but not limited to, novel tobacco products such as dissolvables, lotions, gels, and drinks. This action is intended to protect users and non-users from accidental exposures to nicotine-containing e-liquids in tobacco products.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/00/21	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Courtney Smith, Senior Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Tobacco Products, Document Control Center, Building 71, Room G335, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 877 287-1373, *Fax:* 877 287-1426, *Email:* [ctpregulations@fda.hhs.gov](mailto:ctpregulations@fda.hhs.gov).

*RIN:* 0910-AH24

**96. Testing Standards for Batteries and Battery Management Systems in Battery-Operated Tobacco Products**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 21 U.S.C. 301 *et seq.*; 21 U.S.C. 371; 21 U.S.C. 387b; 21 U.S.C. 387g; 21 U.S.C. 387i

*Abstract:* This rule would propose to establish a product standard to require testing standards for batteries used in electronic nicotine delivery systems (ENDS) and require design protections including a battery management system for ENDS using batteries and protective housing for replaceable batteries. This product standard would protect the safety of users of battery-powered tobacco products and will help to streamline the FDA premarket review process, ultimately reducing the burden on both manufacturers and the Agency. The proposed rule would be applicable to tobacco products that include a non-user replaceable battery as well as products that include a user replaceable battery.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/21	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Nathan Mease, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, WO 71, Room G335, Silver Spring, MD 20993, *Phone:* 877 287-1373, *Email:* [ctpregulations@fda.hhs.gov](mailto:ctpregulations@fda.hhs.gov).

*RIN:* 0910-AH90

**97. Administrative Detention of Tobacco Products**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 21 U.S.C. 334; 21 U.S.C. 371

*Abstract:* The FDA is proposing regulations to establish requirements for the administrative detention of tobacco products. This action, if finalized, would allow FDA to administratively detain tobacco products encountered during inspections that an officer or employee conducting the inspection has reason to believe are adulterated or misbranded. The intent of administrative detention is to protect public health by preventing the distribution or use of violative tobacco products until FDA has had time to consider the appropriate action to take and, where appropriate, to initiate a regulatory action.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/21	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Nathan Mease, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, WO 71, Room G335, Silver Spring, MD 20993, *Phone:* 877 287-1373, *Email:* [ctpregulations@fda.hhs.gov](mailto:ctpregulations@fda.hhs.gov).

*RIN:* 0910-AI05

**DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)***Food and Drug Administration (FDA)*

## Completed Actions

**98. Over-the-Counter (OTC) Drug Review—External Analgesic Products**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 21 U.S.C. 321p; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 371

*Abstract:* The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (*i.e.*, final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. The final action addresses the 2003 proposed rule on patches, plasters, and poultices. The proposed rule will address issues not addressed in previous rulemakings.

*Completed:*

Reason	Date	FR Cite
Withdrawn .....	04/13/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Janice Adams-King, *Phone:* 301 796-3713, *Email:* [janice.adams-king@fda.hhs.gov](mailto:janice.adams-king@fda.hhs.gov).  
*RIN:* 0910-AF35

**99. Over-the-Counter (OTC) Drug Review—Internal Analgesic Products**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 21 U.S.C. 321p; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 371; 21 U.S.C. 374; 21 U.S.C. 379e

*Abstract:* The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective, and not misbranded. After a final monograph (*i.e.*, final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. The first action addresses acetaminophen safety. The second action addresses products marketed for children under 2 years old and weight- and age-based dosing for children's products.

*Completed:*

Reason	Date	FR Cite
Withdrawn .....	04/10/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Janice Adams-King, *Phone:* 301 796-3713, *Fax:* 301 796-9899, *Email:* [janice.adams-king@fda.hhs.gov](mailto:janice.adams-king@fda.hhs.gov).  
*RIN:* 0910-AF36

**100. Sunscreen Drug Products for Over-the-Counter-Human-Use; Final Monograph**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 360ff-5; 21 U.S.C. 371 to 374; 21 U.S.C. 379e

*Abstract:* The final rule will describe the conditions of use under which OTC sunscreen products are generally recognized as safe and effective (GRASE) and not misbranded. Consistent with the Sunscreen Innovation Act, we expect that these conditions will include sunscreen dosage forms and the effectiveness of various SPF values.

*Completed:*

Reason	Date	FR Cite
Withdrawn .....	05/04/20	

*Regulatory Flexibility Analysis Required: Yes.*

Agency Contact: Trang Tran, Phone: 240 402-7945, Email: trang.tran@fda.hhs.gov.

RIN: 0910-AF43

### 101. Over-the-Counter (OTC) Drug Review—Pediatric Dosing for Cough/Cold Products

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 371; . . .

*Abstract:* The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective, and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. This action will propose changes to the final monograph for Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products to address safety and efficacy issues associated with pediatric cough and cold products.

*Completed:*

Reason	Date	FR Cite
Withdrawn .....	04/10/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Janice Adams-King, Phone: 301 796-3713, Fax: 301 796-9899, Email: janice.adams-king@fda.hhs.gov.

RIN: 0910-AG12

### 102. Required Warnings for Cigarette Packages and Advertisements

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 15 U.S.C. 1333; 21 U.S.C. 371; 21 U.S.C. 374; 21 U.S.C. 387c; 21 U.S.C. 387e; 21 U.S.C. 387i; Pub. L. 111-31, secs. 201 and 202, 123 Stat. 1776

*Abstract:* This rule will require color graphics depicting the negative health consequences of smoking to accompany textual warning statements on cigarette packages and in cigarette advertisements. As directed by Congress in the Family Smoking Prevention and Tobacco Control Act, which amends the Federal Cigarette Labeling and Advertising Act, the rule will require these new cigarette health warnings to occupy the top 50 percent of the area of the front and rear panels of cigarette packages and at least 20 percent of the area of cigarette advertisements. The original rule FDA issued in 2011 was vacated by the U.S. Court of Appeals for the District of Columbia Circuit in

August 2012 (*R.J. Reynolds Tobacco Co. v. United States Food & Drug Admin.*, 696 F.3d 1205 D.C. Cir. 2012).

*Completed:*

Reason	Date	FR Cite
Final Rule .....	03/18/20	85 FR 15638
Final Action Effective.	06/18/21	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Courtney Smith, Phone: 877 287-1373, Fax: 877 287-1426, Email: ctpregulations@fda.hhs.gov.

RIN: 0910-AI39

### DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

*Centers for Medicare & Medicaid Services (CMS)*

Proposed Rule Stage

### 103. Reporting of Crimes Occurring in Federally Funded Long Term Care Facilities and Enforcement Under Section 1150B of the Social Security Act (CMS-3359)

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 42 U.S.C. 1320b-25

*Abstract:* This proposed rule would implement federal requirements requiring specific covered individuals in long-term care facilities to report to the Secretary and law enforcement entities any reasonable suspicion that a crime has been committed against a resident of or an individual who is receiving care from such facility. It would also implement requirements of these long-term care facilities to notify such covered individuals of their reporting obligations, as well as their rights under this reporting requirement, and prohibit retaliation for making such reports. Additionally, this proposed rule would establish procedures for imposing civil money penalties and exclusion from participation in any federal health care program for violating the obligations under these requirements. The rule would also provide for hearings and appeals when those penalties and exclusions are imposed.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jessica Wright, Health Insurance Specialist, Department

of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, MS: C2-21-16, 7500 Security Boulevard, Baltimore, MD 21244, Phone: 410 786-3838, Email: jessica.wright@cms.hhs.gov.

RIN: 0938-AT60

### 104. International Pricing Index Model for Medicare Part B Drugs (CMS-5528) (Section 610 Review)

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* Social Security Act, sec. 1115A

*Abstract:* This proposed rule considers testing changes to payment for certain separately payable Part B drugs and biologicals.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	10/30/18	83 FR 54546
ANPRM Comment Period End.	12/31/18	
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Andrew York, Social Science Research Analyst, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare and Medicaid Innovation, MS: WB-06-05, 7500 Security Boulevard, Baltimore, MD 21244, Phone: 410 786-8945, Email: andrew.york1@cms.hhs.gov.

RIN: 0938-AT91

### 105. FY 2021 Inpatient Rehabilitation Facility (IRF) Prospective Payment System Rate Update (CMS-1729)

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395hh

*Abstract:* This annual final rule updates the prospective payment rates for inpatient rehabilitation facilities (IRFs) for fiscal year 2021.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/21/20	85 FR 22065
NPRM Comment Period End.	06/15/20	
Final Action .....	08/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Gwendolyn Johnson, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C5-06-27, 7500 Security Boulevard, Baltimore, MD 21244, Phone: 410 786-6954, Email: gwendolyn.johnson@cms.hhs.gov.

RIN: 0938-AU05

**106. CY 2021 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS-1734) (Section 610 Review)***E.O. 13771 Designation:* Other.*Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395hh

*Abstract:* This annual proposed rule would revise payment policies under the Medicare physician fee schedule, and make other policy changes to payment under Medicare Part B. These changes would apply to services furnished beginning January 1, 2021. Additionally, this rule proposes updates to the Quality Payment Program.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Marge Watchorn, Deputy Director, Division of Practitioner Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4-01-15, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786-4361, *Email:* [marge.watchorn@cms.hhs.gov](mailto:marge.watchorn@cms.hhs.gov).

RIN: 0938-AU10

**107. Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals; The Long-Term Care Hospital Prospective Payment System; and FY 2021 Rates (CMS-1735) (Section 610 Review)***E.O. 13771 Designation:* Regulatory.*Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395hh

*Abstract:* This annual final rule revises the Medicare hospital inpatient and long-term care hospital prospective payment systems for operating and capital-related costs. This rule implements changes arising from our continuing experience with these systems. In addition, the rule establishes new requirements or revises existing requirements for quality reporting by specific Medicare providers.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/29/20	85 FR 32460
NPRM Comment Period End.	07/10/20	
Final Action .....	09/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Donald Thompson, Director, Division of Acute Care,

Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4-08-06, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786-6504, *Email:* [donald.thompson@cms.hhs.gov](mailto:donald.thompson@cms.hhs.gov).

RIN: 0938-AU11

**108. CY 2021 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS-1736) (Section 610 Review)***E.O. 13771 Designation:* Other.*Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395hh

*Abstract:* This annual proposed rule would revise the Medicare hospital outpatient prospective payment system to implement statutory requirements and changes arising from our continuing experience with this system. The proposed rule describes changes to the amounts and factors used to determine payment rates for services. In addition, the rule proposes changes to the ambulatory surgical center payment system list of services and rates. This proposed rule would also update and refine the requirements for the Hospital Outpatient Quality Reporting (OQR) Program and the ASC Quality Reporting (ASCQR) Program.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Marjorie Baldo, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4-03-06, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786-4617, *Email:* [marjorie.baldo@cms.hhs.gov](mailto:marjorie.baldo@cms.hhs.gov).

RIN: 0938-AU12

**109. Payment Policies for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) (CMS-1738)***E.O. 13771 Designation:* Other.*Legal Authority:* 42 U.S.C. 1395l; 42 U.S.C. 1395m; 42 U.S.C. 1395u; 42 U.S.C. 1395w-3

*Abstract:* This rule includes proposed changes affecting Medicare payment for DMEPOS items and services.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Joel Kaiser, Director, Division of DMEPOS Policy, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C5-07-26, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786-6506, *Email:* [joel.kaiser@cms.hhs.gov](mailto:joel.kaiser@cms.hhs.gov).

RIN: 0938-AU17

**DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)**

*Centers for Medicare & Medicaid Services (CMS)*

Long-Term Actions

**110. Durable Medical Equipment Fee Schedule, Adjustments To Resume the Transitional 50/50 Blended Rates To Provide Relief in Non-Competitive Bidding Areas (CMS-1687) (Section 610 Review)***E.O. 13771 Designation:* Other.*Legal Authority:* 42 U.S.C. 1302, 1395hh, and 1395rr(b)(1); Pub. L. 114-255, sec. 5004(b), 16007(a) and 16008

*Abstract:* This final rule follows the interim final rule that published May 11, 2018, and extended the end of the transition period from June 30, 2016, to December 31, 2016 for phasing in adjustments to the fee schedule amounts for certain durable medical equipment (DME) and enteral nutrition paid in areas not subject to the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program (CBP). In addition, the interim rule amended the regulation to resume the transition period for items furnished from August 1, 2017, through December 31, 2018. The interim rule also made technical amendments to existing regulations for DMEPOS items and services to exclude infusion drugs used with DME from the DMEPOS CBP.

*Timetable:*

Action	Date	FR Cite
Interim Final Rule	05/11/18	83 FR 21912
Interim Final Rule Comment Period End.	07/09/18	
Final Action to be Merged With 0938-AU17.	05/00/21	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Alexander Ullman, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services,



Center for Medicare, MS: C5-07-26, 7500 Security Boulevard, Baltimore, MD 21244, Phone: 410 786-9671, Email: alexander.ullman@cms.hhs.gov.

RIN: 0938-AT21

**111. Requirements for Long-Term Care Facilities: Regulatory Provisions To Promote Program Efficiency, Transparency, and Burden Reduction (CMS-3347) (Section 610 Review)**

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* Secs.1819 and 1919 of the Social Security Act; sec.1819(d)(4)(B) and 1919(d)(4)(B) of the Social Security Act; sec. 1819(b)(1)(A) and 1919 (b)(1)(A) of the Social Security Act

*Abstract:* This final rule reforms the requirements that long-term care facilities must meet to participate in the Medicare and Medicaid programs that CMS has identified as unnecessary, obsolete, or excessively burdensome on facilities. This rule increases the ability of healthcare professionals to devote resources to improving resident care by eliminating or reducing requirements that impede quality care or that divert resources away from providing high-quality care.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/18/19	84 FR 34737
NPRM Comment Period End.	09/16/19	
Final Action .....	07/00/22	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Ronisha Blackstone, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, MS: S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244, Phone: 410 786-6882, Email: ronisha.blackstone@cms.hhs.gov.

RIN: 0938-AT36

**112. Organ Procurement Organizations (OPOS) (CMS-3380) (Section 610 Review)**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 42 U.S.C. 1395hh; 42 U.S.C. 1302

*Abstract:* This final rule revises the Organ Procurement Organization (OPO) Conditions for Coverage (CfCs) to increase donation rates and organ transplantation rates by replacing the current measures with new transparent, reliable, and objective measures.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/23/19	84 FR 70628
NPRM Comment Period End.	02/21/20	
Final Action .....	12/00/22	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Alpha-Banu Wilson, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, MS: S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244, Phone: 410 786-8687, Email: alphabanu.wilson@cms.hhs.gov.

RIN: 0938-AU02

**DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)**

*Centers for Medicare & Medicaid Services (CMS)*

Completed Actions

**113. CY 2020 Home Health Prospective Payment System Rate Update and Quality Reporting Requirements (CMS-1711) (Completion of a Section 610 Review)**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395(hh)

*Abstract:* This annual final rule updates the payment rates under the Medicare prospective payment system for home health agencies. In addition, this rule finalizes changes to the Home Health Value-Based Purchasing (HHVBP) Model and to the Home Health Quality Reporting Program (HH QRP).

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/18/19	84 FR 34598
NPRM Comment Period End.	09/09/19	
Final Action .....	11/08/19	
Final Action Effective.	01/01/20	84 FR 60478

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Hillary Loeffler, Director, Division of Home Health and Hospice, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C5-07-22, 7500 Security Boulevard, Baltimore, MD 21244, Phone: 410 786-0456, Email: hillary.loeffler@cms.hhs.gov.

RIN: 0938-AT68

**114. CY 2020 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS-1715) (Completion of a Section 610 Review)**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395hh

*Abstract:* This annual final rule revises payment policies under the Medicare physician fee schedule, and makes other policy changes to payment under Medicare Part B. These changes apply to services furnished beginning January 1, 2020. Additionally, this rule finalizes updates to the Quality Payment Program.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/14/19	84 FR 40482
NPRM Comment Period End.	09/27/19	
Final Action .....	11/15/19	
Final Action Effective.	01/01/20	84 FR 62568

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Marge Watchorn, Deputy Director, Division of Practitioner Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4-01-15, 7500 Security Boulevard, Baltimore, MD 21244, Phone: 410 786-4361, Email: marge.watchorn@cms.hhs.gov.

RIN: 0938-AT72

**115. CY 2020 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS-1717) (Completion of a Section 610 Review)**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395hh

*Abstract:* This annual final rule revises the Medicare hospital outpatient prospective payment system to implement statutory requirements and changes arising from our continuing experience with this system. The rule describes changes to the amounts and factors used to determine payment rates for services. In addition, the rule finalizes changes to the ambulatory surgical center payment system list of services and rates. This rule also updates and refines the requirements for the Hospital Outpatient Quality Reporting (OQR) Program and the ASC Quality Reporting (ASCQR) Program.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/09/19	84 FR 39398
NPRM Comment Period End.	09/27/19	
Final Action .....	11/12/19	84 FR 61142
Final Action Effec- tive.	01/01/20	

*Regulatory Flexibility Analysis  
Required: Yes.*  
*Agency Contact:* Elise Barringer,  
Health Insurance Specialist, Department  
of Health and Human Services, Centers  
for Medicare & Medicaid Services,  
Center for Medicare, MS: C4-03-06,  
7500 Security Boulevard, Baltimore, MD

21244, Phone: 410 786-9222, Email:  
*elise.barringer@cms.hhs.gov.*  
*RIN:* 0938-AT74  
[FR Doc. 2020-16751 Filed 8-25-20; 8:45 am]  
**BILLING CODE 4150-03-P**



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part VIII

Department of Homeland Security

---

Semiannual Regulatory Agenda

**DEPARTMENT OF HOMELAND SECURITY****Office of the Secretary****6 CFR Chs. I and II****[DHS Docket No. OGC–RP–04–001]****Unified Agenda of Federal Regulatory and Deregulatory Actions****AGENCY:** Office of the Secretary, DHS.**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This regulatory agenda is a semiannual summary of projected regulations, existing regulations, and completed actions of the Department of Homeland Security (DHS) and its components. This agenda provides the public with information about DHS's regulatory and deregulatory activity. DHS expects that this information will enable the public to be more aware of, and effectively participate in, the Department's regulatory and deregulatory activity. DHS invites the public to submit comments on any aspect of this agenda.

**FOR FURTHER INFORMATION CONTACT:****General**

Please direct general comments and inquiries on the agenda to the Regulatory Affairs Law Division, Office

of the General Counsel, U.S. Department of Homeland Security, 2707 Martin Luther King Jr. Avenue SE, Mail Stop 0485, Washington, DC 20528–0485.

**Specific**

Please direct specific comments and inquiries on individual actions identified in this agenda to the individual listed in the summary portion as the point of contact for that action.

**SUPPLEMENTARY INFORMATION:** DHS provides this notice pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, Sept. 19, 1980) and Executive Order 12866 “Regulatory Planning and Review” (Sept. 30, 1993) as incorporated in Executive Order 13563 “Improving Regulation and Regulatory Review” (Jan. 18, 2011) and Executive Order 13771 “Reducing Regulation and Controlling Regulatory Costs” (Jan. 30, 2017), which require the Department to publish a semiannual agenda of regulations. The regulatory agenda is a summary of existing and projected regulations as well as actions completed since the publication of the last regulatory agenda for the Department. DHS's last semiannual regulatory agenda was published on December 26, 2019, at 84 FR 71142.

Beginning in fall 2007, the internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda is available online at [www.reginfo.gov](http://www.reginfo.gov).

The Regulatory Flexibility Act (5 U.S.C. 602) requires Federal agencies to publish their regulatory flexibility agendas in the **Federal Register**. A regulatory flexibility agenda shall contain, among other things, a brief description of the subject area of any rule which is likely to have a significant economic impact on a substantial number of small entities. DHS's printed agenda entries include regulatory actions that are in the Department's regulatory flexibility agenda. Printing of these entries is limited to fields that contain information required by the agenda provisions of the Regulatory Flexibility Act. Additional information on these entries is available in the Unified Agenda published on the internet.

The semiannual agenda of the Department conforms to the Unified Agenda format developed by the Regulatory Information Service Center.

Dated: March 3, 2020.

**Christina E. McDonald,**

Associate General Counsel for Regulatory Affairs.

**OFFICE OF THE SECRETARY—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
116 .....	Homeland Security Acquisition Regulation, Enhancement of Whistleblower Protections for Contractor Employees.	1601–AA72
117 .....	Homeland Security Acquisition Regulation: Safeguarding of Controlled Unclassified Sensitive Information (HSAR Case 2015–001).	1601–AA76
118 .....	Homeland Security Acquisition Regulation: Information Technology Security Awareness Training (HSAR Case 2015–002).	1601–AA78
119 .....	Homeland Security Acquisition Regulation: Privacy Training (HSAR Case 2015–003) .....	1601–AA79

**U.S. CITIZENSHIP AND IMMIGRATION SERVICES—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
120 .....	Collection and Use of Biometrics by U.S. Citizenship and Immigration Services .....	1615–AC14
121 .....	Removing H–4 Dependent Spouses From the Classes of Aliens Eligible for Employment Authorization .....	1615–AC15
122 .....	Short-Term Non-Emergency Extension for E-Verify Employers in the H–2A Program .....	1615–AC51

**U.S. CITIZENSHIP AND IMMIGRATION SERVICES—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
123 .....	Removal of International Entrepreneur Parole Program .....	1615–AC04
124 .....	U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements.	1615–AC18
125 .....	Removal of 30-Day Processing Provision for Asylum Applicant-Related Form I–765 Employment Authorization Applications.	1615–AC19
126 .....	Asylum Application, Interview, and Employment Authorization for Applicants .....	1615–AC27

## U.S. CITIZENSHIP AND IMMIGRATION SERVICES—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
127 .....	Requirements for Filing Motions and Administrative Appeals .....	1615-AB98
128 .....	EB-5 Immigrant Investor Regional Center Program .....	1615-AC11
129 .....	Electronic Processing of USCIS Immigration Benefit Requests .....	1615-AC20

## U.S. COAST GUARD—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
130 .....	Financial Responsibility—Vessels; Superseded Pollution Funds (USCG-2017-0788) .....	1625-AC39

## U.S. COAST GUARD—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
131 .....	Commercial Fishing Vessels—Implementation of 2010 and 2012 Legislation .....	1625-AB85

## U.S. CUSTOMS AND BORDER PROTECTION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
132 .....	Importer Security Filing and Additional Carrier Requirements ( <b>Section 610 Review</b> ) .....	1651-AA70
133 .....	Implementation of the Guam-CNMI Visa Waiver Program ( <b>Section 610 Review</b> ) .....	1651-AA77

## TRANSPORTATION SECURITY ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
134 .....	Security Training for Surface Transportation Employees .....	1652-AA55

## U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
135 .....	Visa Security Program Fee .....	1653-AA77
136 .....	Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media.	1653-AA78
137 .....	Adjusting Program Fees for the Student and Exchange Visitor Program .....	1653-AA81

## U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
138 .....	Procedures and Standards for Declining Surety Immigration Bonds and Administrative Appeal Requirement for Breaches.	1653-AA67

## CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
139 .....	Ammonium Nitrate Security Program .....	1670-AA00
140 .....	Chemical Facility Anti-Terrorism Standards (CFATS) .....	1670-AA01

**DEPARTMENT OF HOMELAND SECURITY (DHS)***Office of the Secretary (OS)*

## Long-Term Actions

**116. Homeland Security Acquisition Regulation, Enhancement of Whistleblower Protections for Contractor Employees***E.O. 13771 Designation:* Other.*Legal Authority:* Sec. 827 of the National Defense Authorization Act (NDAA) for Fiscal Year 2013, (Pub. L. 112–239, enacted January 2, 2013); 41 U.S.C. 1302(a)(2) and 1707*Abstract:* The Department of Homeland Security (DHS) is proposing to amend its Homeland Security Acquisition Regulation (HSAR) parts 3003 and 3052 to implement section 827 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112–239, enacted January 2, 2013) for the United States Coast Guard (USCG). Section 827 of the NDAA for FY 2013 established enhancements to the Whistleblower Protections for Contractor Employees for all agencies subject to section 2409 of title 10, United States Code, which includes the USCG.*Timetable:*

Action	Date	FR Cite
NPRM .....	To Be Determined	

*Regulatory Flexibility Analysis Required:* Yes.*Agency Contact:* Nancy Harvey, Policy Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Room 3636–15, 301 7th Street SW, Washington, DC 20528, *Phone:* 202 447–0956, *Email:* nancy.harvey@hq.dhs.gov.*RIN:* 1601–AA72**117. Homeland Security Acquisition Regulation: Safeguarding of Controlled Unclassified Sensitive Information (HSAR Case 2015–001)***E.O. 13771 Designation:* Fully or Partially Exempt.*Legal Authority:* 5 U.S.C. 301 to 302; 41 U.S.C. 1302, 1303 and 1707*Abstract:* This Homeland Security Acquisition Regulation (HSAR) rule would implement security and privacy measures to ensure Controlled Unclassified Information (CUI), such as Personally Identifiable Information (PII), is adequately safeguarded by DHS contractors. Specifically, the rule would define key terms, outline security requirements and inspection provisions for contractor information technology (IT) systems that store, process or

transmit CUI, institute incident notification and response procedures, and identify post-incident credit monitoring requirements.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/19/17	82 FR 6429
NPRM Comment Period End.	03/20/17	
NPRM Comment Period Extended.	03/20/17	82 FR 14341
NPRM Comment Period Extended End.	04/19/17	
Final Rule .....	To Be Determined	

*Regulatory Flexibility Analysis**Required:* Yes.*Agency Contact:* Shaundra Duggans, Procurement Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, 245 Murray Lane SW, Washington, DC 20528, *Phone:* 202 447–0056, *Email:* shaundra.duggans@hq.dhs.gov.*Nancy Harvey, Policy Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Room 3636–15, 301 7th Street SW, Washington, DC 20528, Phone: 202 447–0956, Email: nancy.harvey@hq.dhs.gov.**RIN:* 1601–AA76**118. Homeland Security Acquisition Regulation: Information Technology Security Awareness Training (HSAR Case 2015–002)***E.O. 13771 Designation:* Fully or Partially Exempt.*Legal Authority:* 5 U.S.C. 301 and 302; 41 U.S.C. 1707, 1302 and 1303*Abstract:* This Homeland Security Acquisition Regulation (HSAR) rule would standardize information technology security awareness training and DHS Rules of Behavior requirements for contractor and subcontractor employees who access DHS information systems and information resources or contractor-owned and/or operated information systems and information resources capable of collecting, processing, storing, or transmitting controlled unclassified information (CUI).*Timetable:*

Action	Date	FR Cite
NPRM .....	01/19/17	82 FR 6446
NPRM Comment Period End.	03/20/17	
NPRM Comment Period Extended.	03/20/17	82 FR 14341

Action	Date	FR Cite
NPRM Comment Period Extended End.	04/19/17	
Final Rule .....	To Be Determined	

*Regulatory Flexibility Analysis**Required:* Yes.*Agency Contact:* Shaundra Duggans, Procurement Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, 245 Murray Lane SW, Washington, DC 20528, *Phone:* 202 447–0056, *Email:* shaundra.duggans@hq.dhs.gov.*Nancy Harvey, Policy Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Room 3636–15, 301 7th Street SW, Washington, DC 20528, Phone: 202 447–0956, Email: nancy.harvey@hq.dhs.gov. RIN: 1601–AA78***119. Homeland Security Acquisition Regulation: Privacy Training (HSAR Case 2015–003)***E.O. 13771 Designation:* Fully or Partially Exempt.*Legal Authority:* 5 U.S.C. 301 and 302; 41 U.S.C. 1303, 1702 and 1707*Abstract:* This Homeland Security Acquisition Regulation (HSAR) rule would require contractors to complete training that addresses the protection of privacy, in accordance with the Privacy Act of 1974, and the handling and safeguarding of Personally Identifiable Information and Sensitive Personally Identifiable Information.*Timetable:*

Action	Date	FR Cite
NPRM .....	01/19/17	82 FR 6425
NPRM Comment Period End.	03/20/17	
NPRM Comment Period Extended.	03/20/17	82 FR 14341
NPRM Comment Period Extended End.	04/19/17	
Final Rule .....	To Be Determined	

*Regulatory Flexibility Analysis**Required:* Yes.*Agency Contact:* Candace Lightfoot, Procurement Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, Room 3636–15, 301 7th Street SW, Washington, DC 20528, *Phone:* 202 447–0082, *Email:* candace.lightfoot@hq.dhs.gov.*Nancy Harvey, Policy Analyst, Department of Homeland Security, Office of the Chief Procurement Officer,*

Room 3636–15, 301 7th Street SW,  
Washington, DC 20528, *Phone:* 202 447–  
0956, *Email:* nancy.harvey@hq.dhs.gov.  
*RIN:* 1601–AA79

## DEPARTMENT OF HOMELAND SECURITY (DHS)

*U.S. Citizenship and Immigration Services (USCIS)*

Proposed Rule Stage

### 120. Collection and Use of Biometrics by U.S. Citizenship and Immigration Services

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 8 U.S.C. 1103(a); 8 U.S.C. 1444 to 1446; 8 U.S.C. 1365a and 1365b; 8 U.S.C. 1304(a); Pub. L. 107–56; Pub. L. 107–173; Pub. L. 109–248, sec. 402(a) and 402(b)

*Abstract:* The Department of Homeland Security (DHS) will propose to update its regulations to eliminate multiple references to specific biometric types, and to allow for the expansion of the types of biometrics required to establish and verify an identity. DHS will also propose to modify age restrictions where they exist to detect, deter, or prevent human trafficking of children; establish consistent identity enrollment and verification policies and processes; and align U.S. Citizenship and Immigration Services (USCIS) biometric collection with other immigration operations. The DHS proposal will provide a definition to the public on the term biometric and how biometrics will be used in the immigration process.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael J. McDermott, Acting Division Chief, Security and Public Safety Division, Office of Policy and Strategy, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW, Suite 2304, Washington, DC 20529, *Phone:* 202 272–8377, *Fax:* 202 272–1480.

*RIN:* 1615–AC14

### 121. Removing H-4 Dependent Spouses From the Classes of Aliens Eligible for Employment Authorization

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 6 U.S.C. 112; 8 U.S.C. 1103(a), 1184(a)(1) and 1324a(H)(3)(B)  
*Abstract:* On February 25, 2015, DHS published a final rule that amended

DHS regulations to extend eligibility for employment authorization to certain H–4 dependent spouses of H–1B nonimmigrant workers who are seeking employment-based lawful permanent resident (LPR) status. DHS is publishing this notice of proposed rulemaking to propose to remove from its regulations this class of aliens for eligibility for employment authorization.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Charles Locky Nimick, Chief, Business and Foreign Workers Division, Office of Policy and Strategy, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW, Suite 1100, Washington, DC 20529–2090, *Phone:* 202 272–8377, *Fax:* 202 272–1480.

*RIN:* 1615–AC15

### 122. • Short-Term Non-Emergency Extension for E-Verify Employers in the H–2A Program

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* Pub. L. 107–296, sec. 116; 6 U.S.C. 112; 8 U.S.C. 1103(a), 1184(a)(1), and 1324a(h)(3)(B)

*Abstract:* The Department of Homeland Security proposes to amend its regulations regarding short-term extensions for U.S. employers seeking temporary or seasonal agricultural nonimmigrant workers in the H–2A program to provide a short-term non-emergency extension of the H–2A petition validity period by up to 14 days to U.S. employers who are participants in good standing in E-Verify.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Charles Locky Nimick, Chief, Business and Foreign Workers Division, Office of Policy and Strategy, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW, Suite 1100, Washington, DC 20529–2090, *Phone:* 202 272–8377, *Fax:* 202 272–1480.

*RIN:* 1615–AC51

## DEPARTMENT OF HOMELAND SECURITY (DHS)

*U.S. Citizenship and Immigration Services (USCIS)*

Final Rule Stage

### 123. Removal of International Entrepreneur Parole Program

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 8 U.S.C. 1182(d)(5)(A)

*Abstract:* On January 17, 2017, DHS published the International Entrepreneur Final Rule (the IE final rule) in the **Federal Register** at 82 FR 5238, with an original effective date of July 17, 2017. On May 29, 2018, DHS published a notice of proposed rulemaking (NPRM) proposing to remove the international entrepreneur parole program from DHS regulations and solicited public comments on the proposal.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/31/16	81 FR 60129
NPRM Comment Period End.	10/17/16	
Final Rule .....	01/17/17	82 FR 5238
Final Rule Delay of Effective Date.	07/11/17	82 FR 31887
Final Rule Effective.	07/17/17	
NPRM—Removal of International Entrepreneur Parole Program.	05/29/18	83 FR 24415
NPRM Comment Period End—Removal of International Entrepreneur Parole Program.	06/28/18	
Final Action—Removal of International Entrepreneur Parole Program.	09/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Charles Locky Nimick, Chief, Business and Foreign Workers Division, Office of Policy and Strategy, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW, Suite 1100, Washington, DC 20529–2090, *Phone:* 202 272–8377, *Fax:* 202 272–1480.

*RIN:* 1615–AC04

### 124. U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 8 U.S.C. 1356(m)

**Abstract:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) conducted a FY 2019/2020 fee review for its Immigration Examinations Fee Account (IEFA), pursuant to the requirements of the Chief Financial Officers Act of 1990 (CFO Act), 31 U.S.C. 901–03 and the Immigration and Nationality Act, section 286(m), 8 U.S.C. 1356(m). The CFO Act requires each agency's chief financial officer to "review, on a biennial basis, the fees, royalties, rents, and other charges imposed by the agency for services and things of value it provides, and make recommendations on revising those charges to reflect costs incurred by it in providing those services and things of value." As a result of the FY 2019/2020 IEFA fee review, on November 14, 2019, DHS issued a proposed rule (84 FR 62280) to adjust USCIS' fee schedule via notice and comment rulemaking. That comment period was subsequently extended on December 9, 2019 (84 FR 67243) and reopened on January 24, 2020 (85 FR 4243). DHS is considering the comments received in developing a final rule.

**Timetable:**

Action	Date	FR Cite
NPRM .....	11/14/19	84 FR 62280
NPRM Comment Period Extended.	12/09/19	84 FR 67243
NPRM Comment Period End.	12/16/19	
NPRM Comment Period Extended End.	12/30/19	
NPRM Comment Period Reopened.	01/24/20	85 FR 4243
NPRM Comment Period Reopened End.	02/10/20	
Final Action .....	09/00/20	

**Regulatory Flexibility Analysis**

**Required:** Yes.

**Agency Contact:** Kika M. Scott, Chief Financial Officer, Department of Homeland Security, U.S. Citizenship and Immigration Services, Suite 4018, 20 Massachusetts Avenue NW, Washington, DC 20529, *Phone:* 202 272–8377, *Fax:* 202 272–1480.

*RIN:* 1615–AC18

**125. Removal of 30-Day Processing Provision for Asylum Applicant-Related Form I-765 Employment Authorization Applications**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 8 U.S.C. 1101 and 1103; Pub. L. 103–322; 8 U.S.C. 1105a; 8 U.S.C. 1151, 1153 and 1154; 8 U.S.C.

1182; 8 U.S.C. 1186a; 8 U.S.C. 1255; Pub. L. 113–4; 5 U.S.C. 801

**Abstract:** On September 9, 2019, DHS issued a proposed rule that would withdraw a regulatory provision stating that U.S. Citizenship and Immigration Services (USCIS) has 30 days from the date an asylum applicant files the initial Form I-765, Application for Employment Authorization (EAD application) to grant or deny that initial employment authorization application. DHS also proposed removing the provision requiring that the application for renewal must be received by USCIS 90 days prior to the expiration of the employment authorization. DHS will issue a final rule to respond to public comments and finalize removal of these provisions.

**Timetable:**

Action	Date	FR Cite
NPRM .....	09/09/19	84 FR 47148
NPRM Comment Period End.	11/08/19	
Final Action .....	06/00/20	

**Regulatory Flexibility Analysis**

**Required:** Yes.

**Agency Contact:** Daniel Kane, Branch Chief, Service Center Operations, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, *Phone:* 202 272–8377.

*RIN:* 1615–AC19

**126. Asylum Application, Interview, and Employment Authorization for Applicants**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 8 U.S.C. 1158(d)(2)

**Abstract:** On November 14, 2019, The Department of Homeland Security (DHS) proposed regulatory amendments intended to promote greater accountability in the application process for requesting employment authorization and to deter the fraudulent filing of asylum applications for the purpose of obtaining Employment Authorization Documents (EADs). DHS is considering public comments in development of the final rule.

**Timetable:**

Action	Date	FR Cite
NPRM .....	11/14/19	84 FR 62374
NPRM Comment Period End.	01/13/20	
Final Action .....	08/00/20	

**Regulatory Flexibility Analysis**

**Required:** Yes.

**Agency Contact:** Maureen A. Dunn, Chief, Humanitarian Affairs Division,

Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Policy and Strategy, Suite 1200, 20 Massachusetts Avenue NW, Washington, DC 20529, *Phone:* 202 272–8377, *Fax:* 202 272–1480.

*RIN:* 1615–AC27

**DEPARTMENT OF HOMELAND SECURITY (DHS)**

*U.S. Citizenship and Immigration Services (USCIS)*

Long-Term Actions

**127. Requirements for Filing Motions and Administrative Appeals**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 5 U.S.C. 552 and 552a; 8 U.S.C. 1101, 1103 and 1304; 6 U.S.C. 112

**Abstract:** The Department of Homeland Security (DHS) is proposing this rule to improve the administration of U.S. Citizenship and Immigration Services (USCIS) appeals, motions, and certifications. The proposed changes would update and restructure the regulations in order to clarify and streamline the administrative review process, increase efficiency, and reflect the establishment of DHS and its components.

**Timetable:**

Action	Date	FR Cite
NPRM .....	06/00/21	

**Regulatory Flexibility Analysis**

**Required:** Yes.

**Agency Contact:** William K. Renwick, Jr., Branch Chief, Department of Homeland Security, U.S. Citizenship and Immigration Services, Administrative Appeals Office, 20 Massachusetts Avenue NW, Washington, DC 20529–2090, *Phone:* 202 272–8377, *Fax:* 202 272–1480.

*RIN:* 1615–AB98

**128. EB–5 Immigrant Investor Regional Center Program**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 8 U.S.C. 1153(b)(5); Pub. L. 102–395, secs. 610 and 601(a); Pub. L. 107–273, sec. 11037; Pub. L. 101–649, sec. 121(a); Pub. L. 105–119, sec. 116; Pub. L. 106–396, sec. 402; Pub. L. 108–156, sec. 4; Pub. L. 112–176, sec. 1; Pub. L. 114–113, sec. 575; Pub. L. 114–53, sec. 131; Pub. L. 107–273

**Abstract:** The Department of Homeland Security (DHS) is considering making regulatory changes to the EB–5 Immigrant Investor Regional Center Program. DHS issued an Advance Notice of Proposed Rulemaking



(ANPRM) to seek comment from the public on several topics, including: (1) The process for initially designating entities as regional centers, (2) a potential requirement for regional centers to utilize an exemplar filing process, (3) continued participation requirements for maintaining regional center designation; and (4) the process for terminating regional center designation. While DHS has gathered some information related to these topics, the ANPRM sought additional information that can help the Department make operational and security updates to the Regional Center Program while minimizing the impact of such changes on regional center operations and EB-5 investors.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	01/11/17	82 FR 3211
ANPRM Comment Period End.	04/11/17	
NPRM .....	12/00/21	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Charles Locky Nimick, Chief, Business and Foreign Workers Division, Office of Policy and Strategy, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW, Suite 1100, Washington, DC 20529-2090, *Phone:* 202 272-8377, *Fax:* 202 272-1480.

*RIN:* 1615-AC11

## 129. Electronic Processing of USCIS Immigration Benefit Requests

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 6 U.S.C. 112; 8 U.S.C. 1103; 44 U.S.C. 3504

*Abstract:* The Department of Homeland Security (DHS) will propose to: (1) Set requirements for mandatory-online submission for immigration benefit requests and explain the requirements associated with electronic processing; and (2) make changes to existing regulations to allow end-to-end digital processing.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/21	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael Mayhew, Chief of Staff, Immigration Records and Identity Services Directorate, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW,

Washington, DC 20529, *Phone:* 202 272-8377, *Fax:* 202 272-1480.

*RIN:* 1615-AC20

## DEPARTMENT OF HOMELAND SECURITY (DHS)

*U.S. Coast Guard (USCG)*

Proposed Rule Stage

### 130. Financial Responsibility—Vessels; Superseded Pollution Funds (USCG–2017–0788)

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 33 U.S.C. 2704; 33 U.S.C. 2716 and 2716a; 42 U.S.C. 9607 to 9609; 6 U.S.C. 552; E.O. 12580; sec. 7(b), 3 CFR, 1987; Comp., p. 193; E.O. 12777, secs. 4 and 5, 3 CFR, 1991 Comp., p. 351, as amended by E.O. 13286, sec. 89, 3; 3 CFR, 2004 Comp., p. 166, and by E.O. 13638, sec. 1, 3 CFR, 2014 Comp., p. 227; Department of Homeland Security Delegation Nos. 0170.1 and 5110, Revision 01

*Abstract:* The Coast Guard proposes to amend its rule on vessel financial responsibility to include tank vessels greater than 100 gross tons, to clarify and strengthen the rule's reporting requirements, to conform its rule to current practice, and to remove two superseded regulations. This rulemaking will ensure the Coast Guard has current information when there are significant changes in a vessel's operation, ownership, or evidence of financial responsibility, and reflect current best practices in the Coast Guard's management of the Certificate of Financial Responsibility Program. This rulemaking will also promote the Coast Guard's missions of maritime stewardship, maritime security, and maritime safety.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/13/20	85 FR 28802
NPRM Comment Period End.	08/11/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Benjamin White, Project Manager, National Pollution Funds Center, Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE, STOP 7605, Washington, DC 20593-7605, *Phone:* 202 795-6066, *Email:* benjamin.h.white@uscg.mil.

*RIN:* 1625-AC39

## DEPARTMENT OF HOMELAND SECURITY (DHS)

*U.S. Coast Guard (USCG)*

Long-Term Actions

### 131. Commercial Fishing Vessels—Implementation of 2010 and 2012 Legislation

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 46 U.S.C. 4502 and 5103; Pub. L. 111-281

*Abstract:* The Coast Guard proposes to implement those requirements of 2010 and 2012 legislation that pertain to uninspected commercial fishing industry vessels and that took effect upon enactment of the legislation but that, to be implemented, require amendments to Coast Guard regulations affecting those vessels. The applicability of the regulations is being changed, and new requirements are being added to safety training, equipment, vessel examinations, vessel safety standards, the documentation of maintenance, and the termination of unsafe operations. This rulemaking promotes the Coast Guard's maritime safety mission.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/21/16	81 FR 40437
NPRM Comment Period Extended.	08/15/16	81 FR 53986
NPRM Comment Period End.	10/19/16	
NPRM Comment Period Extended End.	12/18/16	
Final Rule .....	To Be Determined	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Joseph Myers, Project Manager, Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE, STOP 7501, Washington, DC 20593-7501, *Phone:* 202 372-1249, *Email:* joseph.d.myers@uscg.mil.

*RIN:* 1625-AB85

## DEPARTMENT OF HOMELAND SECURITY (DHS)

*U.S. Customs and Border Protection (USCBP)*

Long-Term Actions

### 132. Importer Security Filing and Additional Carrier Requirements (Section 610 Review)

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* Pub. L. 109-347, sec. 203; 5 U.S.C. 301; 19 U.S.C. 66; 19

U.S.C. 1431; 19 U.S.C. 1433 and 1434; 19 U.S.C. 1624; 19 U.S.C. 2071 (note); 46 U.S.C. 60105

**Abstract:** This final rule implements the provisions of section 203 of the Security and Accountability for Every Port Act of 2006. On November 25, 2008, Customs and Border Protection (CBP) published an interim final rule (CBP Dec. 08–46) in the **Federal Register** (73 FR 71730), that finalized most of the provisions proposed in the Notice of Proposed Rulemaking. It requires carrier and importers to provide to CBP, via a CBP approved electronic data interchange system, certain advance information pertaining to cargo brought into the United States by vessel to enable CBP to identify high-risk shipments to prevent smuggling and ensure cargo safety and security. The interim final rule did not finalize six data elements that were identified as areas of potential concern for industry during the rulemaking process and, for which, CBP provided some type of flexibility for compliance with those data elements. CBP solicited public comment on these six data elements and also invited comments on the revised Regulatory Assessment and Final Regulatory Flexibility Analysis. (See 73 FR 71782–85 for regulatory text and 73 CFR 71733–34 for general discussion.) The remaining requirements of the rule were adopted as final.

**Timetable:**

Action	Date	FR Cite
NPRM .....	01/02/08	73 FR 90
NPRM Comment Period End.	03/03/08	
NPRM Comment Period Extended.	02/01/08	73 FR 6061
NPRM Comment Period End.	03/18/08	
Interim Final Rule	11/25/08	73 FR 71730
Interim Final Rule Effective.	01/26/09	
Interim Final Rule Comment Period End.	06/01/09	
Correction .....	07/14/09	74 FR 33920
Correction .....	12/24/09	74 FR 68376
Final Action .....	To Be Determined	

**Regulatory Flexibility Analysis**

**Required:** Yes.

**Agency Contact:** Brian Sale, Branch Chief, Manifest & Conveyance Security Division, Cargo & Conveyance, Office of Field Operation, Department of Homeland Security, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229, Phone: 202 325–3338, Email: [brian.a.sale@cbp.dhs.gov](mailto:brian.a.sale@cbp.dhs.gov).  
RIN: 1651–AA70

**133. Implementation of the Guam-CNMI Visa Waiver Program (Section 610 Review)**

**E.O. 13771 Designation:** Fully or Partially Exempt.

**Legal Authority:** Pub. L. 110–229, sec. 702

**Abstract:** The interim final rule amends Department of Homeland Security (DHS) regulations to implement section 702 of the Consolidated Natural Resources Act of 2008 (CNRA). This law extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) and provides for a joint visa waiver program for travel to Guam and the CNMI. This rule implements section 702 of the CNRA by amending the regulations to replace the current Guam Visa Waiver Program with a new Guam-CNMI Visa Waiver Program. The amended regulations set forth the requirements for nonimmigrant visitors who seek admission for business or pleasure and solely for entry into and stay on Guam or the CNMI without a visa. This rule also establishes six ports of entry in the CNMI for purposes of administering and enforcing the Guam-CNMI Visa Waiver Program. Section 702 of the Consolidated Natural Resources Act of 2008 (CNRA), subject to a transition period, extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) and provides for a visa waiver program for travel to Guam and/or the CNMI. On January 16, 2009, the Department of Homeland Security (DHS), Customs and Border Protection (CBP), issued an interim final rule in the **Federal Register** replacing the then-existing Guam Visa Waiver Program with the Guam-CNMI Visa Waiver Program and setting forth the requirements for nonimmigrant visitors seeking admission into Guam and/or the CNMI under the Guam-CNMI Visa Waiver Program. As of November 28, 2009, the Guam-CNMI Visa Waiver Program is operational. This program allows nonimmigrant visitors from eligible countries to seek admission for business or pleasure for entry into Guam and/or the CNMI without a visa for a period of authorized stay not to exceed 45 days. This rulemaking would finalize the January 2009 interim final rule.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	01/16/09	74 FR 2824
Interim Final Rule Effective.	01/16/09	
Interim Final Rule Comment Period End.	03/17/09	

Action	Date	FR Cite
Technical Amendment; Change of Implementation Date.	05/28/09	74 FR 25387
Final Action .....	06/00/21	

**Regulatory Flexibility Analysis**

**Required:** No.

**Agency Contact:** Neyda Yejo, Program Manager, Electronic System for Travel Authorization, Office of Field Operations, Department of Homeland Security, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229, Phone: 202 344–2373, Email: [neyda.i.yejo@cbp.dhs.gov](mailto:neyda.i.yejo@cbp.dhs.gov).  
RIN: 1651–AA77

**DEPARTMENT OF HOMELAND SECURITY (DHS)**

**Transportation Security Administration (TSA)**

**Completed Actions**

**134. Security Training for Surface Transportation Employees**

**E.O. 13771 Designation:** Other.

**Legal Authority:** 49 U.S.C. 114; Pub. L. 110–53, secs. 1405, 1408, 1501, 1512, 1517, 1531, and 1534

**Abstract:** The 9/11 Act requires security training for employees of higher-risk freight railroad carriers, public transportation agencies (including rail mass transit and bus systems), passenger railroad carriers, and over-the-road bus (OTRB) companies. This final rule implements the regulatory mandate. Owner/operators of these higher-risk railroads, systems, and companies will be required to train employees performing security-sensitive functions, using a curriculum addressing preparedness and how to observe, assess, and respond to terrorist-related threats and/or incidents. As part of this rulemaking, the Transportation Security Administration (TSA) is expanding its current requirements for rail security coordinators and reporting of significant security concerns (currently limited to freight railroads, passenger railroads, and the rail operations of public transportation systems) to include the bus components of higher-risk public transportation systems and higher-risk OTRB companies. TSA is also adding a definition for Transportation Security-Sensitive Materials (TSSM). Other provisions are being amended or added, as necessary, to implement these additional requirements.

**Timetable:**

Action	Date	FR Cite
Notice; Request for Comment.	06/14/13	78 FR 35945
Notice; Comment Period End.	07/15/13	
NPRM .....	12/16/16	81 FR 91336
NPRM Comment Period End.	03/16/17	
Final Rule .....	03/23/20	85 FR 16456
Final Rule Effective.	06/22/20	

*Regulatory Flexibility Analysis**Required: Yes.*

*Agency Contact:* Chandru (Jack) Kalro, Deputy Director, Surface Division, Department of Homeland Security, Transportation Security Administration, Policy, Plans, and Engagement, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–1145, *Email:* [surfacefrontoffice@tsa.dhs.gov](mailto:surfacefrontoffice@tsa.dhs.gov).

Alex Moscoso, Chief Economist, Economic Analysis Branch—Coordination & Analysis Division, Department of Homeland Security, Transportation Security Administration, Policy, Plans, and Engagement, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–5839, *Email:* [alex.moscoso@tsa.dhs.gov](mailto:alex.moscoso@tsa.dhs.gov).

Traci Klemm, Assistant Chief Counsel, Regulations and Security Standards, Department of Homeland Security, Transportation Security Administration, Chief Counsel's Office, 601 South 12th Street, Arlington, VA 20598–6002, *Phone:* 571 227–3596, *Email:* [traci.klemm@tsa.dhs.gov](mailto:traci.klemm@tsa.dhs.gov).

RIN: 1652-AA55

**DEPARTMENT OF HOMELAND SECURITY (DHS)***U.S. Immigration and Customs Enforcement (USICE)*

## Proposed Rule Stage

**135. Visa Security Program Fee***E.O. 13771 Designation:* Other.*Legal Authority:* 8 U.S.C. 1356

*Abstract:* ICE seeks to enable the expansion of the Visa Security Program (VSP) by proposing to move it to a user-fee funded model (as opposed to relying on appropriations). The VSP leverages resources in the National Capital Region (NCR) and at U.S. diplomatic posts overseas to vet and screen visa applicants; identifies and prevents the travel of those who constitute potential national security and/or public safety threats; and launches investigations into criminal and/or terrorist affiliated networks operating in the U.S. and abroad. The fees collected as a result of this rule would fund an expansion of

the VSP, enabling ICE to extend visa security screening and vetting operations and investigative efforts to more visa-issuing posts overseas, and in turn, enhance the U.S. government's ability to prevent travel to the United States by illicit actors.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/00/20	

*Regulatory Flexibility Analysis**Required: Yes.*

*Agency Contact:* Sharon Hageman, Acting Regulations Unit Chief/Chief Economist, Department of Homeland Security, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Mail Stop 5006, Washington, DC 20536, *Phone:* 202 732–3462, *Email:* [sharon.hageman@ice.dhs.gov](mailto:sharon.hageman@ice.dhs.gov).

RIN: 1653-AA77

**136. Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media***E.O. 13771 Designation:* Other.*Legal Authority:* 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1182 and 1184

*Abstract:* U.S. Immigration and Customs Enforcement (ICE) will propose to modify the period of authorized stay for certain categories of nonimmigrants traveling to the United States by eliminating the availability of “duration of status” and by providing a maximum period of authorized stay with options for extensions for each applicable visa category.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/00/20	

*Regulatory Flexibility Analysis**Required: Yes.*

*Agency Contact:* Sharon Hageman, Acting Regulations Unit Chief/Chief Economist, Department of Homeland Security, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Mail Stop 5006, Washington, DC 20536, *Phone:* 202 732–3462, *Email:* [sharon.hageman@ice.dhs.gov](mailto:sharon.hageman@ice.dhs.gov).

RIN: 1653-AA78

**137. • Adjusting Program Fees for the Student and Exchange Visitor Program***E.O. 13771 Designation:* Other.*Legal Authority:* 8 U.S.C. 1372(e); 8 U.S.C. 1372(g); 8 U.S.C. 1356(m); 8 U.S.C. 1356(n)

*Abstract:* ICE will propose a regulation to adjust fees that the Student

and Exchange Visitor Program (SEVP) charges individuals and organizations to improve compliance and enforcement related to nonimmigrant students. ICE has determined that increasing the fees is necessary to support increased compliance including worksite enforcement, investigating fraud related to nonimmigrant employment, and enforcement regarding nonimmigrant students who violate their status. The SEVP fee schedule was last adjusted in a rule published on May 23, 2019.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/00/20	

*Regulatory Flexibility Analysis**Required: Yes.*

*Agency Contact:* Sharon Hageman, Acting Regulations Unit Chief/Chief Economist, Department of Homeland Security, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Mail Stop 5006, Washington, DC 20536, *Phone:* 202 732–3462, *Email:* [sharon.hageman@ice.dhs.gov](mailto:sharon.hageman@ice.dhs.gov).

RIN: 1653-AA81

**DEPARTMENT OF HOMELAND SECURITY (DHS)***U.S. Immigration and Customs Enforcement (USICE)*

## Final Rule Stage

**138. Procedures and Standards for Declining Surety Immigration Bonds and Administrative Appeal Requirement for Breaches**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 8 U.S.C. 1103

*Abstract:* U.S. Immigration and Customs Enforcement (ICE) is establishing standards and procedures ICE will follow before making a determination to stop accepting immigration bonds posted by a surety company that has been certified to issue bonds by the Department of the Treasury when the company does not cure deficient performance. Treasury administers the Federal corporate surety program and, in its current regulations, allows agencies to prescribe “for cause” standards and procedures for declining to accept new bonds from Treasury-certified sureties. ICE will also require surety companies seeking to overturn a breach determination to file an administrative appeal raising all legal and factual defenses.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/05/18	83 FR 25951
NPRM Comment Period End.	08/06/18	
Final Action .....	07/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Sharon Hageman, Acting Regulations Unit Chief/Chief Economist, Department of Homeland Security, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Mail Stop 5006, Washington, DC 20536, *Phone:* 202 732-3462, *Email:* sharon.hageman@ice.dhs.gov, *RIN:* 1653-AA67

## DEPARTMENT OF HOMELAND SECURITY (DHS)

*Cybersecurity and Infrastructure Security Agency (CISA)*

Long-Term Actions

### 139. Ammonium Nitrate Security Program

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 6 U.S.C. 488 *et seq.*  
*Abstract:* This rulemaking will implement the December 2007 amendment to the Homeland Security Act titled "Secure Handling of Ammonium Nitrate." The amendment requires the Department of Homeland Security to "regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility . . . to prevent the misappropriation or use of ammonium nitrate in an act of terrorism." In June 2019, DHS published a notice announcing the availability of a redacted version of a technical report titled Ammonium Nitrate Security Program Technical Assessment. Sandia National Laboratories developed the report. DHS requested public comments

on the report and its application to the proposed definition of ammonium nitrate. DHS will review and consider all the comments received and then determine the next appropriate steps for this rulemaking.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	10/29/08	73 FR 64280
ANPRM Correction.	11/05/08	73 FR 65783
ANPRM Comment Period End.	12/29/08	
NPRM .....	08/03/11	76 FR 46908
Notice of Public Meetings.	10/07/11	76 FR 62311
Notice of Public Meetings.	11/14/11	76 FR 70366
NPRM Comment Period End.	12/01/11	
Notice of Availability.	06/03/19	84 FR 25495
Notice of Availability Comment Period End.	09/03/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Lona Saccomando, Chemical Facility of Interest (CFOI) Coordinator, Infrastructure Security Compliance Division, Department of Homeland Security, Cybersecurity and Infrastructure Security Agency, 245 Murray Lane SW, Mail Stop 0610, Arlington, VA 20528-0610, *Phone:* 703 603-4868, *Email:* lona.saccomando@cisa.dhs.gov.

*RIN:* 1670-AA00

### 140. Chemical Facility Anti-Terrorism Standards (CFATS)

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 6 U.S.C. 621 to 629  
*Abstract:* The Department of Homeland Security (DHS) previously invited public comment on an advance

notice of proposed rulemaking (ANPRM) for potential revisions to the Chemical Facility Anti-Terrorism Standards (CFATS) regulations. The ANPRM provided an opportunity for the public to provide recommendations for possible program changes. DHS is reviewing the public comments received in response to the ANPRM, after which DHS intends to publish a Notice of Proposed Rulemaking. In addition, DHS intends to publish a notice announcing the availability of a retrospective analysis of the data, assumptions, and methodology that were used to support the 2007 CFATS interim final rule. The intent of the retrospective analysis is to determine the most accurate assessment of the costs and burdens of the program and to update or confirm previous cost estimates based on observed data from the operation of the CFATS program since 2007.

*Timetable:*

Action	Date	FR Cite
ANPRM ..... ANPRM Comment Period End.	08/18/14 10/17/14	79 FR 48693
NPRM .....	To Be Determined	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Lona Saccomando, Chemical Facility of Interest (CFOI) Coordinator, Infrastructure Security Compliance Division, Department of Homeland Security, Cybersecurity and Infrastructure Security Agency, 245 Murray Lane SW, Mail Stop 0610, Arlington, VA 20528-0610, *Phone:* 703 603-4868, *Email:* lona.saccomando@cisa.dhs.gov.

*RIN:* 1670-AA01

[FR Doc. 2020-16757 Filed 8-25-20; 8:45 am]

**BILLING CODE 9110-9B-P**



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part IX

Department of the Interior

---

Semiannual Regulatory Agenda

**DEPARTMENT OF THE INTERIOR****Office of the Secretary****25 CFR Ch. I****30 CFR Chs. II and VII****36 CFR Ch. I****43 CFR Subtitle A, Chs. I and II****48 CFR Ch. 14****50 CFR Chs. I and IV**

[167D0102DM; DS6CS00000;  
DLSN00000.00000; DX6CS25]

**Semiannual Regulatory Agenda**

**AGENCY:** Office of the Secretary, Interior.  
**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This notice provides the semiannual agenda of Department of the Interior (Department) rules scheduled for review or development between Spring 2020 and Spring 2021. The Regulatory Flexibility Act and Executive Order 12866 require publication of the agenda.

**ADDRESSES:** Unless otherwise indicated, all agency contacts are located at the Department of the Interior, 1849 C Street NW, Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:**

Please direct all comments and inquiries about these rules to the appropriate agency contact. Please direct general comments relating to the agenda to the Office of Executive Secretariat and Regulatory Affairs, Department of the Interior, at the address above or at (202) 208-5257.

**SUPPLEMENTARY INFORMATION:** With this publication, the Department satisfies the requirement of Executive Order 12866 that the Department publish an agenda of rules that we have issued or expect to issue and of currently effective rules that we have scheduled for review.

Simultaneously, the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) to publish an agenda in April and October of each year identifying rules that will have significant economic effects on a substantial number of small entities. We have specifically identified in the agenda rules that will have such effects. The complete Unified Agenda will be published at [www.reginfo.gov](http://www.reginfo.gov), in a

format that offers users enhanced ability to obtain information from the Agenda database. Agenda information is also available at [www.regulations.gov](http://www.regulations.gov), the government-wide website for submission of comments on proposed regulations.

In some cases, the Department has withdrawn rules that were placed on previous agendas for which there has been no publication activity or for which a proposed or interim rule was published. There is no legal significance to the omission of an item from this agenda. Withdrawal of a rule does not necessarily mean that the Department will not proceed with the rulemaking. Withdrawal allows the Department to assess the action further and determine whether rulemaking is appropriate. Following such an assessment, the Department may determine that certain rules listed as withdrawn under this agenda are appropriate for promulgation. If that determination is made, such rules will comply with Executive Order 13771.

**Bivan Patnaik,**

*Deputy Director, Executive Secretariat and Regulatory Affairs.*

**ASSISTANT SECRETARY FOR LAND AND MINERALS MANAGEMENT—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
141 .....	Revisions to the Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf .....	1082-AA01
142 .....	Risk Management, Financial Assurance and Loss Prevention .....	1082-AA02

**UNITED STATES FISH AND WILDLIFE SERVICE—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
143 .....	Migratory Bird Hunting; 2020–2021 Migratory Game Bird Hunting Regulations .....	1018-BD89
144 .....	Migratory Bird Hunting; 2021–22 Migratory Game Bird Hunting Regulations .....	1018-BE34

**UNITED STATES FISH AND WILDLIFE SERVICE—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
145 .....	Migratory Bird Hunting; 2022–23 Migratory Game Bird Hunting Regulations .....	1018-BF07
146 .....	Importation, Exportation and Transportation of Wildlife; Updates to the Regulations .....	1018-BF16

**DEPARTMENT OF THE INTERIOR (DOI)**

*Assistant Secretary for Land and Minerals Management (ASLM)*

**Proposed Rule Stage****141. Revisions to the Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 43 U.S.C. 1331 to 1356a; 33 U.S.C. 2701

*Abstract:* This proposed rule would revise specific provisions of the regulations published in the final Arctic Exploratory Drilling Rule, 81 FR 46478 (July 15, 2016), which established a regulatory framework for exploratory drilling and related operations within the Beaufort Sea and Chukchi Sea Planning Areas on the Outer Continental Shelf of Alaska. The rulemaking for this RIN replaces the

Bureau of Safety and Environmental Enforcement's RIN 1014-AA40.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Justin Abernathy, Deputy Director for Policy, Office of the

Executive Secretariat and Regulatory Affairs, Department of the Interior, Office of the Secretary, 1849 C Street NW, Washington, DC 20240, Phone: 202 513-0357, Email: [justin\\_abernathy@ios.doi.gov](mailto:justin_abernathy@ios.doi.gov).

RIN: 1082-AA01

#### 142. Risk Management, Financial Assurance and Loss Prevention

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 43 U.S.C. 1331 *et seq.*

*Abstract:* As directed by Executive Order 13795, the Bureau of Ocean Energy Management (BOEM) has reconsidered its financial assurance policies, as reflected in Notice to Lessees No. 2016-N01 (September 12, 2016). In consideration of that review, BOEM and the Bureau of Safety and Environmental Enforcement (BSEE) are now developing a joint rule that is intended to revise existing financial assurance policies for oil and gas operations on the Outer Continental Shelf in order to ensure operator compliance with financial and performance obligations while reducing unnecessary regulatory burdens.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Justin Abernathy, Deputy Director for Policy, Office of the Executive Secretariat and Regulatory Affairs, Department of the Interior, Office of the Secretary, 1849 C Street NW, Washington, DC 20240, Phone: 202 513-0357, Email: [justin\\_abernathy@ios.doi.gov](mailto:justin_abernathy@ios.doi.gov).

RIN: 1082-AA02

#### DEPARTMENT OF THE INTERIOR (DOI)

*United States Fish and Wildlife Service (FWS)*

Proposed Rule Stage

#### 143. Migratory Bird Hunting; 2020–2021 Migratory Game Bird Hunting Regulations

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 16 U.S.C. 703 to 712; 16 U.S.C. 742a–j

*Abstract:* We propose to establish annual hunting regulations for certain migratory game birds for the 2020–2021 hunting season. We annually prescribe outside limits (frameworks), within which States may select hunting seasons. This proposed rule provides the regulatory schedule, describes the

proposed regulatory alternatives for the 2020–2021 duck hunting seasons, and requests proposals from Indian tribes that wish to establish special migratory game bird hunting regulations on Federal Indian reservations and ceded lands. Migratory game bird hunting seasons provide opportunities for recreation and sustenance; aid Federal, State, and Tribal governments in the management of migratory game birds; and permit harvests at levels compatible with migratory game bird population status and habitat conditions. We rely on a regulatory impact analysis developed in 2013 to quantify the costs and benefits of different regulatory alternatives in these annual hunting regulations. We will incorporate the most recent available data in this analysis to inform the final rule and subsequent rulemakings.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/15/19	84 FR 55120
NPRM Comment Period End.	11/15/19	
NPRM—Proposed Frameworks.	03/19/20	85 FR 15870
NPRM Comment Period End.	04/20/20	
NPRM—Proposed Tribal Regulations.	04/02/20	85 FR 18532
NPRM Comment Period End.	05/04/20	
Final Frameworks	06/00/20	
Final Tribal Regulations.	07/00/20	
Season Selections.	08/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dr. Eric L. Kershner, Chief, Branch of Conservation, Permits, and Regulations, Department of the Interior, United States Fish and Wildlife Service, 5275 Leesburg Pike, MS: MB, Falls Church, VA 22041, Phone: 703 358-2376, Fax: 703 358-2217, Email: [eric\\_kershner@fws.gov](mailto:eric_kershner@fws.gov).

RIN: 1018-BD89

#### 144. Migratory Bird Hunting; 2021–22 Migratory Game Bird Hunting Regulations

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 16 U.S.C. 703 to 712; 16 U.S.C. 742a–j

*Abstract:* The U.S. Fish and Wildlife Service proposes to establish annual hunting regulations for certain migratory game birds for the 2021–22 hunting season. We annually prescribe outside limits (frameworks) within which States may select hunting seasons. This proposed rule provides

the regulatory schedule, announces the Service Migratory Bird Regulations Committee and Flyway Council meetings, describes the proposed regulatory alternatives for the 2021–22 duck hunting seasons, and requests proposals from Indian Tribes that wish to establish special migratory game bird hunting regulations on Federal Indian reservations and ceded lands.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/00/20	
NPRM—Supplemental.	09/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jerome Ford, Assistant Director—Migratory Bird Program, Department of the Interior, United States Fish and Wildlife Service, 5275 Leesburg Pike, MS—MB, Falls Church, VA 22041–3803, Phone: 703 358–1050, Email: [jerome\\_ford@fws.gov](mailto:jerome_ford@fws.gov).  
RIN: 1018-BE34

#### DEPARTMENT OF THE INTERIOR (DOI)

*United States Fish and Wildlife Service (FWS)*

Long-Term Actions

#### 145. • Migratory Bird Hunting; 2022–23 Migratory Game Bird Hunting Regulations

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 16 U.S.C. 703 to 712; 16 U.S.C. 742a–j

*Abstract:* The U.S. Fish and Wildlife Service proposes to establish annual hunting regulations for certain migratory game birds for the 2022–23 hunting season. We annually prescribe outside limits (frameworks) within which States may select hunting seasons. This proposed rule provides the regulatory schedule, announces the Service Migratory Bird Regulations Committee and Flyway Council meetings, describes the proposed regulatory alternatives for the 2022–23 duck hunting seasons, and requests proposals from Indian Tribes that wish to establish special migratory game bird hunting regulations on Federal Indian reservations and ceded lands.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/21	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jerome Ford, Assistant Director—Migratory Bird Program, Department of the Interior, United States Fish and Wildlife Service, 5275 Leesburg Pike, MS—MB, Falls Church, VA 22041–3803, *Phone:* 703 358–1050, *Email:* jerome\_ford@fws.gov.

*RIN:* 1018–BF07

**146. • Importation, Exportation and Transportation of Wildlife; Updates to the Regulations**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 16 U.S.C. 668; 16 U.S.C. 704; 16 U.S.C. 712; 16 U.S.C. 1382; 16 U.S.C. 1538(d)–(f); 16 U.S.C. 1540(f); 16 U.S.C. 33 8(d)–(f); 16 U.S.C. 3371 to 3378; 16 U.S.C. 4223 to 4244; 16 U.S.C. 4901 to 4916; 18 U.S.C. 42; 31 U.S.C. 42; 31 U.S.C. 9701

*Abstract:* We propose to rewrite our regulations governing the importation and exportation of wildlife to make these regulations easier to understand. In addition, we propose to revise the inspection fees associated with the importation and exportation of wildlife and to update the list of species that qualify as domesticated species, for which U.S. Fish and Wildlife inspection and clearance is not required. The current inspection fees have been in effect since 2012. The establishment of these fees is consistent with the Independent Offices Appropriations Act of 1952 and OMB Circular No. A–25, which provide that services provided by Federal agencies are to be self-sustaining to the extent possible and that fees assessed should be sufficient to recover the full cost to the Federal

Government of providing the service and are based on market prices.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/21	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Edward Grace, Assistant Director, Office of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, 5275 Leesburg Pike, MS: LEO, Falls Church, VA 22041–3803, *Phone:* 703 358–1949, *Fax:* 703 358–1947, *Email:* edward\_grace@fws.gov.

*RIN:* 1018–BF16

[FR Doc. 2020–16747 Filed 8–25–20; 8:45 am]

**BILLING CODE 4334–63–P**





# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part X

Department of Labor

---

Semiannual Regulatory Agenda

**DEPARTMENT OF LABOR****Office of the Secretary****20 CFR Chs. I, IV, V, VI, VII, and IX****29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV****30 CFR Ch. I****41 CFR Ch. 60****48 CFR Ch. 29****Semiannual Agenda of Regulations****AGENCY:** Office of the Secretary, Labor.**ACTION:** Semiannual Regulatory Agenda.

**SUMMARY:** The internet has become the means for disseminating the entirety of the Department of Labor's semiannual regulatory agenda. However, the Regulatory Flexibility Act requires publication of a regulatory flexibility agenda in the **Federal Register**. This

**Federal Register** Notice contains the regulatory flexibility agenda.

**FOR FURTHER INFORMATION CONTACT:**

Laura M. Dawkins, Director, Office of Regulatory and Programmatic Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW, Room S-2312, Washington, DC 20210; (202) 693-5959.

**Note:** Information pertaining to a specific regulation can be obtained from the agency contact listed for that particular regulation.

**SUPPLEMENTARY INFORMATION:** Executive Order 12866 requires the semiannual publication of an agenda of regulations that contains a listing of all the regulations the Department of Labor expects to have under active consideration for promulgation, proposal, or review during the coming one-year period. The entirety of the Department's semiannual agenda is available online at [www.reginfo.gov](http://www.reginfo.gov).

The Regulatory Flexibility Act (5 U.S.C. 602) requires DOL to publish in the **Federal Register** a regulatory

flexibility agenda. The Department's Regulatory Flexibility Agenda, published with this notice, includes only those rules on its semiannual agenda that are likely to have a significant economic impact on a substantial number of small entities; and those rules identified for periodic review in keeping with the requirements of section 610 of the Regulatory Flexibility Act. Thus, the regulatory flexibility agenda is a subset of the Department's semiannual regulatory agenda. The Department's Regulatory Flexibility Agenda does not include section 610 items at this time.

All interested members of the public are invited and encouraged to let departmental officials know how our regulatory efforts can be improved and are invited to participate in and comment on the review or development of the regulations listed on the Department's agenda.

**Eugene Scalia,**  
*Secretary of Labor.*

**OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
147 .....	Implementing Legal Requirements Regarding the Equal Opportunity Clause's Religious Exemption .....	1250-AA09

**OFFICE OF LABOR-MANAGEMENT STANDARDS—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
148 .....	Trust Annual Reports .....	1245-AA09

**WAGE AND HOUR DIVISION—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
149 .....	Independent Contractor Status Under the Fair Labor Standards Act .....	1235-AA34

**EMPLOYMENT AND TRAINING ADMINISTRATION—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
150 .....	Temporary Employment of H-2B Foreign Workers in Certain Itinerant Occupations in the United States ...	1205-AB93

**EMPLOYMENT AND TRAINING ADMINISTRATION—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
151 .....	Apprenticeship Programs, Labor Standards for Registration, Amendment of Regulations .....	1205-AB85
152 .....	Modernizing Recruitment Requirements Under the H-2B Program .....	1205-AB91

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
153 .....	Pooled Employer Plans Under the SECURE Act .....	1210–AB94

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
154 .....	Default Electronic Disclosures by Employee Pension Benefit Plans Under ERISA .....	1210–AB90

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
155 .....	Emergency Response .....	1218–AC91
156 .....	Tree Care Standard .....	1218–AD04
157 .....	Prevention of Workplace Violence in Health Care and Social Assistance .....	1218–AD08

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
158 .....	Communication Tower Safety .....	1218–AC90

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
159 .....	Infectious Diseases .....	1218–AC46
160 .....	Process Safety Management and Prevention of Major Chemical Accidents .....	1218–AC82

## DEPARTMENT OF LABOR (DOL)

Office of Federal Contract Compliance Programs (OFCCP)

Final Rule Stage

#### 147. Implementing Legal Requirements Regarding the Equal Opportunity Clause's Religious Exemption

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* Not Yet Determined.  
*Abstract:* OFCCP plans to update its regulations to comply with current law regarding protections for religion-exercising organizations.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/15/19	84 FR 41677
NPRM Comment Period End.	09/16/19	
Final Rule .....	08/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Tina Williams, Director, Division of Policy and Program Development, Department of Labor, Office of Federal Contract Compliance Programs, 200 Constitution Avenue NW,

Washington, DC 20210, *Phone:* 202 693–0104.

*RIN:* 1250–AA09

## DEPARTMENT OF LABOR (DOL)

Office of Labor-Management Standards (OLMS)

Completed Actions

#### 148. Trust Annual Reports

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 29 U.S.C. 438  
*Abstract:* The Department of Labor's Office of Labor-Management Standards re-established a Form T–1 to capture financial information pertinent to trusts in which a labor organization is “interested” (section 3(l) “trusts”), as defined by section 3(l) of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA or Act), 29 U.S.C. 402(l); information that has largely gone unreported. *See* 84 FR 25130. The information in this regulatory plan entry is derived from the proposed rule. The LMRDA's various reporting provisions were designed to empower labor

organization members by providing them the means to maintain democratic control over their labor organizations and ensure a proper accounting of labor organization funds. The final rule brings the reporting requirements for labor organizations and section 3(l) trusts in line with contemporary expectations for the disclosure of financial information.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/30/19	84 FR 25130
NPRM Comment Period End.	07/29/19	
Final Rule .....	03/06/20	85 FR 13414
Final Rule; Correction.	03/30/20	85 FR 17500
Final Rule Effective.	04/06/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Andrew R. Davis, Chief, Division of Interpretations and Standards, Office of Labor-Management Standards, Department of Labor, Office of Labor-Management Standards, 200 Constitution Avenue NW, FP Building, Room N–5609, Washington, DC 20210,

Phone: 202 693-0123, Fax: 202 693-1340, Email: [olms-public@dol.gov](mailto:olms-public@dol.gov).  
RIN: 1245-AA09

## DEPARTMENT OF LABOR (DOL)

### Wage and Hour Division (WHD)

#### Proposed Rule Stage

#### 149. • Independent Contractor Status Under the Fair Labor Standards Act

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* Fair Labor Standards Act, 29 U.S.C. 201 *et seq.*

*Abstract:* The Department of Labor is proposing a regulation for determining independent contractor status under the Fair Labor Standards Act.

#### Timetable:

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Amy DeBisschop, Director of the Division of Regulations, Legislation and Interpretation, Department of Labor, Wage and Hour Division, 200 Constitution Avenue NW, FP Building, Room S-3502, Washington, DC 20210, Phone: 202 693-0406.

RIN: 1235-AA34

## DEPARTMENT OF LABOR (DOL)

### Employment and Training Administration (ETA)

#### Proposed Rule Stage

#### 150. Temporary Employment of H-2B Foreign Workers in Certain Itinerant Occupations in the United States

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 8 U.S.C. 1184; 8 U.S.C. 1103

*Abstract:* The United States Department of Labor's (DOL) Employment and Training Administration and Wage and Hour Division, and the United States Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services, are jointly amending regulations regarding the H-2B non-immigrant visa program at 20 CFR part 655, subpart A. The Notice of Proposed Rulemaking (NPRM) will establish standards and procedures for employers seeking to hire foreign temporary nonagricultural workers for certain itinerant job opportunities, including entertainers and carnivals and utility vegetation management.

#### Timetable:

Action	Date	FR Cite
NPRM .....	03/00/21	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Brian Pasternak, Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, FP Building, Washington, DC 20210, Phone: 202 513-7350.  
RIN: 1205-AB93

## DEPARTMENT OF LABOR (DOL)

### Employment and Training Administration (ETA)

#### Completed Actions

#### 151. Apprenticeship Programs, Labor Standards for Registration, Amendment of Regulations

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* The National Apprenticeship Act, as amended (50 Stat. 664; 29 U.S.C. 50)

*Abstract:* This final rule revised title 29 CFR part 29, Labor Standards for the Registration of Apprenticeship Programs to establish a process for recognizing Standards Recognition Entities which in turn will recognize high-quality, industry-recognized apprenticeship programs.

#### Timetable:

Action	Date	FR Cite
NPRM .....	06/25/19	84 FR 29970
NPRM Comment Period End.	08/26/19	
Final Rule .....	03/11/20	85 FR 14294
Final Rule Effective.	05/11/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John V. Ladd, Administrator, Office of Apprenticeship, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, FP Building, Room C-5311, Washington, DC 20210, Phone: 202 693-2796, Fax: 202 693-3799, Email: [ladd.john@dol.gov](mailto:ladd.john@dol.gov).  
RIN: 1205-AB85

#### 152. Modernizing Recruitment Requirements Under the H-2B Program

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 8 U.S.C. 1184; 8 U.S.C. 1103

*Abstract:* The United States Department of Labor's (DOL)

Employment and Training Administration and the United States Department of Homeland Security (DHS) U.S. Citizenship and Immigration Services jointly amended regulations regarding the H-2B non-immigrant visa program at 20 CFR part 655, subpart A. This final rule modernizes and improves the labor market test that DOL uses to assess whether qualified U.S. workers are available by: Rescinding the requirement that an employer advertise its job opportunity in a print newspaper of general circulation in the area of intended employment, and expanding and enhancing DOL's electronic job registry to disseminate available job opportunities to the widest audience possible.

#### Timetable:

Action	Date	FR Cite
NPRM .....	11/09/18	83 FR 55977
NPRM Comment Period End.	12/10/18	
NPRM Comment Period End Extension to 12/28/2018.	12/10/18	83 FR 63430
Final Rule .....	11/15/19	84 FR 62431
Final Rule Effective.	12/16/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Brian Pasternak, Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, FP Building, Washington, DC 20210, Phone: 202 513-7350.  
RIN: 1205-AB91

## DEPARTMENT OF LABOR (DOL)

### Employee Benefits Security Administration (EBSA)

#### Proposed Rule Stage

#### 153. • Pooled Employer Plans Under the Secure Act

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* Pub. L. 116-94, sec. 101, Setting Every Community Up for Retirement Enhancement Act of 2019

*Abstract:* Section 101 of the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act) amended the Employee Retirement Income Security Act of 1974 (ERISA) to include a pooled employer plan as a type of single employer pension benefit plan, and granted the Secretary authority to issue such guidance as the Secretary determines appropriate to carry out the purposes of the new

provisions. This rulemaking action will implement the ERISA amendments in section 101 of the SECURE Act.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Jeffrey J. Turner, Deputy Director, Office of Regulations and Interpretations, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, FP Building, Room N-5655, Washington, DC 20210, *Phone:* 202 693-8500.

*RIN:* 1210-AB94

## DEPARTMENT OF LABOR (DOL)

### *Employee Benefits Security Administration (EBSA)*

#### Completed Actions

#### 154. Default Electronic Disclosures by Employee Pension Benefit Plans Under ERISA

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 29 U.S.C. 1024 (ERISA sec. 104); 29 U.S.C. 1029(c) (ERISA sec. 109(c)); 29 U.S.C. 1030 (ERISA sec. 110); 29 U.S.C. 1135 (ERISA sec. 505); E.O. 13847, 83 FR 45321 (August 21, 2018)

*Abstract:* This regulatory action is being finalized in response to Executive Order 13847, Strengthening Retirement Security in America, and will reduce the costs and burdens imposed on employers and other plan fiduciaries responsible for the production and distribution of retirement plan disclosures required under title I of the Employee Retirement Income Security Act, as well as ways to make these disclosures more understandable and useful for participants and beneficiaries, by allowing disclosure via internet posting or by email, as a default.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/23/19	84 FR 56894
NPRM Comment Period End.	11/22/19	
Final Rule .....	05/27/20	85 FR 31884
Final Action Effective.	05/27/20	
Final Rule Applicability Date.	05/27/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Jeffrey J. Turner, Deputy Director, Office of Regulations

and Interpretations, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, FP Building, Room N-5655, Washington, DC 20210, *Phone:* 202 693-8500.

*RIN:* 1210-AB90

## DEPARTMENT OF LABOR (DOL)

### *Occupational Safety and Health Administration (OSHA)*

#### Prerule Stage

#### 155. Emergency Response

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 29 U.S.C. 655(b); 29 U.S.C. 657; 5 U.S.C. 609

*Abstract:* OSHA currently regulates aspects of emergency response and preparedness; some of these standards were promulgated decades ago, and none were designed as comprehensive emergency response standards. Consequently, they do not address the full range of hazards or concerns currently facing emergency responders, and other workers providing skilled support, nor do they reflect major changes in performance specifications for protective clothing and equipment. The agency acknowledged that current OSHA standards also do not reflect all the major developments in safety and health practices that have already been accepted by the emergency response community and incorporated into industry consensus standards. OSHA is considering updating these standards with information gathered through an RFI and public meetings.

*Timetable:*

Action	Date	FR Cite
Stakeholder Meetings.	07/30/14	
Convene NACOSH Workgroup.	09/09/15	
NACOSH Review of Workgroup Report.	12/14/16	
Initiate SBREFA ..	10/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Email:* levinson.andrew@dol.gov.

*RIN:* 1218-AC91

#### 156. Tree Care Standard

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* Not Yet Determined

*Abstract:* There is no OSHA standard for tree care operations; the agency currently applies a patchwork of standards to address the serious hazards in this industry. The tree care industry previously petitioned the agency for rulemaking and OSHA issued an ANPRM (September 2008). OSHA initiated and completed a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel in April 2020, collecting information from affected small entities on a potential standard, including the scope of the standard, effective work practices, and arboricultural specific uses of equipment to guide OSHA in developing a rule that would best address industry safety and health concerns. Tree care continues to be a high-hazard industry.

*Timetable:*

Action	Date	FR Cite
Stakeholder Meeting.	07/13/16	
Initiate SBREFA ..	01/10/20	
Complete SBREFA.	05/22/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Email:* levinson.andrew@dol.gov.

*RIN:* 1218-AD04

#### 157. Prevention of Workplace Violence in Health Care and Social Assistance

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 29 U.S.C. 655(b); 5 U.S.C. 609

*Abstract:* The Request for Information (RFI) (published on December 7, 2016 81 FR 88147)) provides OSHA's history with the issue of workplace violence in health care and social assistance, including a discussion of the Guidelines that were initially published in 1996, a 2014 update to the Guidelines, the agency's use of 5(a)(1) in enforcement cases in health care. The RFI solicited information primarily from health care employers, workers and other subject matter experts on impacts of violence, prevention strategies, and other information that will be useful to the agency. OSHA was petitioned for a standard preventing workplace violence

in health care by a broad coalition of labor unions, and in a separate petition by the National Nurses United. On January 10, 2017, OSHA granted the petitions.

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	12/07/16	81 FR 88147
RFI Comment Period End.	04/06/17	
Initiate SBREFA ..	12/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Email:* levinson.andrew@dol.gov.

*RIN:* 1218-AD08

## DEPARTMENT OF LABOR (DOL)

### Occupational Safety and Health Administration (OSHA)

#### Proposed Rule Stage

#### 158. Communication Tower Safety

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 29 U.S.C. 655(b); 5 U.S.C. 609

*Abstract:* While the number of employees engaged in the communication tower industry remains small, the fatality rate is very high. Over the past 20 years, this industry has experienced an average fatality rate that greatly exceeds that of the construction industry. Due to recent FCC spectrum auctions and innovations in cellular technology, there will be a very high level of construction activity taking place on communication towers over the next few years. A similar increase in the number of construction projects needed to support cellular phone coverage triggered a spike in fatality and injury rates years ago. Based on information collected from an April 2016 Request for Information (RFI), OSHA concluded that current OSHA requirements such as those for fall protection and personnel hoisting, may not adequately cover all hazards of communication tower construction and maintenance activities. OSHA will use information collected from a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel to identify effective work practices and advances in engineering technology that would best

address industry safety and health concerns. The Panel carefully considered the issue of the expansion of the rule beyond just communication towers. OSHA will continue to consider also covering structures that have telecommunications equipment on or attached to them (e.g., buildings, rooftops, water towers, billboards).

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	04/15/15	80 FR 20185
RFI Comment Period End.	06/15/15	
Initiate SBREFA ..	01/04/17	
Initiate SBREFA ..	05/31/18	
Complete SBREFA.	10/11/18	
NPRM .....	12/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Scott Ketcham, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, Room N-3468, FP Building, Washington, DC 20210, *Phone:* 202 693-2020, *Fax:* 202 693-1689, *Email:* ketcham.scott@dol.gov.

*RIN:* 1218-AC90

## DEPARTMENT OF LABOR (DOL)

### Occupational Safety and Health Administration (OSHA)

#### Long-Term Actions

#### 159. Infectious Diseases

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 5 U.S.C. 533; 29 U.S.C. 657 and 658; 29 U.S.C. 660; 29 U.S.C. 666; 29 U.S.C. 669; 29 U.S.C. 673

*Abstract:* Employees in health care and other high-risk environments face long-standing infectious disease hazards such as tuberculosis (TB), varicella disease (chickenpox, shingles), and measles (rubella), as well as new and emerging infectious disease threats, such as Severe Acute Respiratory Syndrome (SARS) and pandemic influenza. Health care workers and workers in related occupations, or who are exposed in other high-risk environments, are at increased risk of contracting TB, SARS, Methicillin-Resistant Staphylococcus Aureus (MRSA), and other infectious diseases that can be transmitted through a variety of exposure routes. OSHA is examining regulatory alternatives for control measures to protect employees from infectious disease exposures to

pathogens that can cause significant disease. Workplaces where such control measures might be necessary include: Health care, emergency response, correctional facilities, homeless shelters, drug treatment programs, and other occupational settings where employees can be at increased risk of exposure to potentially infectious people. A standard could also apply to laboratories, which handle materials that may be a source of pathogens, and to pathologists, coroners' offices, medical examiners, and mortuaries.

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	05/06/10	75 FR 24835
RFI Comment Period End.	08/04/10	
Analyze Comments.	12/30/10	
Stakeholder Meetings.	07/05/11	76 FR 39041
Initiate SBREFA ..	06/04/14	
Complete SBREFA.	12/22/14	
NPRM .....	To Be Determined	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Email:* levinson.andrew@dol.gov.

*RIN:* 1218-AC46

#### 160. Process Safety Management and Prevention of Major Chemical Accidents

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 29 U.S.C. 655; 29 U.S.C. 657

*Abstract:* The Occupational Safety and Health Administration (OSHA) issued a Request for Information (RFI) on December 9, 2013 (78 FR 73756). The RFI identified issues related to modernization of the Process Safety Management standard and related standards necessary to meet the goal of preventing major chemical accidents.

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	12/09/13	78 FR 73756
RFI Comment Period Extended.	03/07/14	79 FR 13006
RFI Comment Period Extended End.	03/31/14	

Action	Date	FR Cite	<i>Regulatory Flexibility Analysis Required: Yes.</i>	Avenue NW, FP Building, Room N-3718, Washington, DC 20210, <i>Phone:</i> 202 693-1950, <i>Email:</i> levinson.andrew@dol.gov. <i>RIN:</i> 1218-AC82
Initiate SBREFA .. SBREFA Report Completed. Next Action Unde- termined.	06/08/15 08/01/16		<i>Agency Contact:</i> Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution	[FR Doc. 2020-16759 Filed 8-25-20; 8:45 am] <b>BILLING CODE 4510-04-P</b>







# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XI

Department of Transportation

---

Semiannual Regulatory Agenda

**DEPARTMENT OF TRANSPORTATION****Office of the Secretary****14 CFR Chs. I–III****23 CFR Chs. I–III****33 CFR Chs. I and IV****46 CFR Chs. I–III****48 CFR Ch. 12****49 CFR Subtitle A, Chs. I–VI, and Chs. X–XII****[DOT–OST–1999–5129]****Department Regulatory and Deregulatory Agenda; Semiannual Summary****AGENCY:** Office of the Secretary, DOT.**ACTION:** Unified Agenda of Federal Regulatory and Deregulatory Actions (Regulatory Agenda).

**SUMMARY:** The Regulatory and Deregulatory Agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. The intent of the Agenda is to provide the public with information about the Department of Transportation's regulatory activity planned for the next 12 months. It is expected that this information will enable the public to more effectively participate in the Department's regulatory process. The public is also invited to submit comments on any aspect of this Agenda.

**FOR FURTHER INFORMATION CONTACT:****General**

You should direct all comments and inquiries on the Agenda in general to Jonathan Moss, Assistant General Counsel for Regulation, Office of General Counsel, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590; (202) 366–4723.

**Specific**

You should direct all comments and inquiries on particular items in the Agenda to the individual listed for the regulation or the general rulemaking contact person for the operating administration in appendix B.

**Table of Contents**

Supplementary Information  
Background  
Significant/Priority Rulemakings  
Explanation of Information on the Agenda  
Request for Comments

**Purpose**

Appendix A—Instructions for Obtaining Copies of Regulatory Documents  
Appendix B—General Rulemaking Contact Persons  
Appendix C—Public Rulemaking Dockets  
Appendix D—Review Plans for Section 610 and Other Requirements

**SUPPLEMENTARY INFORMATION:****Background**

A primary goal of the U.S. Department of Transportation (Department or DOT) is to allow the public to understand how we make decisions, which necessarily includes being transparent in the way we measure the risks, costs, and benefits of engaging in—or deciding not to engage in—a particular regulatory action. As such, it is our policy to provide an opportunity for public comment on such actions to all interested stakeholders. Above all, transparency and meaningful engagement mandate that regulations should be straightforward, clear, and accessible to any interested stakeholder. The Department also embraces the notion that there should be no more regulations than necessary. We emphasize consideration of non-regulatory solutions and have rigorous processes in place for continual reassessment of existing regulations. These processes provide that regulations and other agency actions are periodically reviewed and, if appropriate, are revised to ensure that they continue to meet the needs for which they were originally designed, and that they remain cost-effective and cost-justified. DOT was the first agency to incorporate the Administration's regulatory reform policies permanently, codifying reforms to the Department's rulemaking, guidance, and enforcement practices. The rule codifies regulatory budgeting, the “2-for-1” plan, and the RRTF, as well as additional procedures for the Department's most costly rules, including enhanced opportunities for public participation. It also clarifies that guidance documents do not impose legal obligations and shall not be used as a basis for enforcement. Finally, the rule ensures due process protections for potential subjects of enforcement actions, including open and fair investigations and proceedings.

To help the Department achieve its goals and in accordance with Executive Order (E.O.) 12866, “Regulatory Planning and Review,” (58 FR 51735; Oct. 4, 1993) and the Department's “Administrative Rulemaking, Guidance, and Enforcement Procedures” (84 FR 248; Dec. 27, 2019), the Department prepares a semiannual regulatory and deregulatory agenda. It summarizes all

current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. These are matters on which action has begun or is projected during the next 12 months or for which action has been completed since the last Agenda.

In addition, this Agenda was prepared in accordance with three executive orders issued by President Trump, which directed agencies to further scrutinize their regulations and other agency actions. On January 30, 2017, President Trump signed Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs. Under section 2(a) of the Executive order, unless prohibited by law, whenever an executive department or agency publicly proposes for notice and comment or otherwise promulgates a new regulation, it must identify at least two existing regulations to be repealed. On February 24, 2017, President Trump signed Executive Order 13777, Enforcing the Regulatory Reform Agenda. Under this Executive order, each agency must establish a Regulatory Reform Task Force (RRTF) to evaluate existing regulations, and make recommendations for their repeal, replacement, or modification. On March 28, 2017, President Trump signed Executive Order 13783, Promoting Energy Independence and Economic Growth, requiring agencies to review all existing regulations, orders, guidance documents, policies, and other similar agency actions that potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources.

In response to the mandate in Executive Order 13777, the Department formed an RRTF consisting of senior career and non-career leaders, which has already conducted extensive reviews of existing regulations, and identified a number of rules to be repealed, replaced, or modified. As a result of the RRTF's work, since January 2017, the Department has issued deregulatory actions that reduce regulatory costs on the public by over \$4.3 billion (in net present value cost savings). With the RRTF's assistance, the Department has achieved these cost savings in a manner that is fully consistent with safety. For example, on April 30, 2020, NHTSA published the Safer, Affordable, Fuel-Efficient (SAFE) Vehicles rule in conjunction with the Environmental Protection Agency. The SAFE Vehicles rule increases U.S. competitiveness by reducing regulatory costs by tens of billions of dollars and helps American consumers afford to buy newer, cleaner, and safer vehicles by

reducing the average price of a new vehicle by about \$1,000. In addition, FMCSA recently published a rule that would save the public billions of dollars by providing greater flexibility to drivers subject to FMCSA's hours of service regulations without adversely affecting safety.

While each regulatory and deregulatory action is evaluated on its own merits, the RRTF augments the Department's consideration of prospective rulemakings by conducting monthly reviews across all OAs to identify appropriate deregulatory actions. The RRTF also works to ensure that any new regulatory action is rigorously vetted and non-regulatory alternatives are considered.

The Department's ongoing regulatory effort is guided by four fundamental principles—safety, innovation, enabling investment in infrastructure, and reducing unnecessary regulatory burdens. These priorities are grounded in our national interest in maintaining U.S. global leadership in safety, innovation, and economic growth. In light of the unprecedented effects of the Coronavirus Disease (COVID-19) public health emergency, these priorities are also grounded in regulatory actions that assist in our Nation's recovery. To accomplish our regulatory goals, we must create a regulatory environment that fosters growth in new and innovative industries without burdening them with unnecessary restrictions. At the same time, safety remains our highest priority; we must remain focused on managing safety risks and being sure that we do not regress from the successes already achieved. Our planned regulatory actions reflect a careful balance that emphasizes the Department's priority in fostering innovation while at the same time meeting the challenges of maintaining a safe, reliable, and sustainable transportation system.

For example, the National Highway Traffic Safety Administration (NHTSA) is working on reducing regulatory barriers to technology innovation, including the integration of automated vehicles, while continuing to focus on safety. Automated vehicles are expected to increase safety significantly by reducing the likelihood of human error when driving, which today accounts for the overwhelming majority of accidents on our nation's roadways. NHTSA plans to issue regulatory actions that: (1) allow for permanent updates to current FMVSS reflecting new technology; and (2) allow for updates to NHTSA's regulations outlining the administrative processes for petitioning the agency for exemptions, rulemakings, and

reconsiderations. Similarly, the Federal Aviation Administration (FAA) is working to enable, safely and efficiently, the integration of unmanned aircraft systems (UAS) into the National Airspace System. UAS are expected to continue to drive innovation and increase safety as operators and manufacturers find new and inventive uses for UAS. For instance, UAS are poised to assist human operators with a number of different mission sets such as inspection of critical infrastructure and search and rescue, enabling beneficial and lifesaving activities that would otherwise be difficult or even impossible for a human to accomplish unassisted. The Department has regulatory efforts underway to further integrate UAS safely and efficiently.

Another example is the Department's work on several rulemakings to facilitate a major transformation of our national space program from one in which the Federal government has a primary role to one in which private industry drives growth in innovation and launches. The FAA has proposed a rule that will fundamentally change how FAA licenses launches and reentries of commercial space vehicles moving from prescriptive requirements to a performance based approach.

#### Explanation of Information in the Agenda

An Office of Management and Budget memorandum, dated January 16, 2020, establishes the format for this Agenda.

First, the Agenda is divided by initiating offices. Then the Agenda is divided into five categories: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; (4) long-term actions; and (5) completed actions. For each entry, the Agenda provides the following information: (1) Its "significance"; (2) a short, descriptive title; (3) its legal basis; (4) the related regulatory citation in the Code of Federal Regulations; (5) any legal deadline and, if so, for what action (*e.g.*, NPRM, final rule); (6) an abstract; (7) a timetable, including the earliest expected date for when a rulemaking document may publish; (8) whether the rulemaking will affect small entities and/or levels of Government and, if so, which categories; (9) whether a Regulatory Flexibility Act (RFA) analysis is required (for rules that would have a significant economic impact on a substantial number of small entities); (10) a listing of any analyses an office will prepare or has prepared for the action (with minor exceptions, DOT requires an economic analysis for all its rulemakings); (11) an agency contact office or official who can provide further information; (12) a Regulation

Identifier Number (RIN) assigned to identify an individual rulemaking in the Agenda and facilitate tracing further action on the issue; (13) whether the action is subject to the Unfunded Mandates Reform Act; (14) whether the action is subject to the Energy Act; (15) the action's designation under Executive Order 13771 explaining whether the action will have a regulatory or deregulatory effect; and (16) whether the action is major under the congressional review provisions of the Small Business Regulatory Enforcement Fairness Act.

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules), to keep those requirements operationally current, we only include the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations; we do not list individual regulations.

In the "Timetable" column, we use abbreviations to indicate the particular documents being considered. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, and NPRM for Notice of Proposed Rulemaking. Listing a future date in this column does not mean we have made a decision to issue a document; it is the earliest date on which a rulemaking document may publish. In addition, these dates are based on current schedules. Information received after the issuance of this Agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (•) preceding an entry indicates that the entry appears in the Agenda for the first time.

The internet is the basic means for disseminating the Unified Agenda. The complete Unified Agenda is available online at [www.reginfo.gov](http://www.reginfo.gov) in a format that offers users a greatly enhanced ability to obtain information from the Agenda database. A portion of the Agenda is published in the **Federal Register**, however, because the Regulatory Flexibility Act (5 U.S.C. 602) mandates publication for the regulatory flexibility agenda. Accordingly, DOT's printed Agenda entries include only:

1. The agency's Agenda preamble;
2. Rules that are in the agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely

to have a significant economic impact on a substantial number of small entities; and

3. Any rules that the agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. These elements are: Sequence Number; Title; Section 610 Review, if applicable; Legal Authority; Abstract; Timetable; Regulatory Flexibility Analysis Required; Agency Contact; and Regulation Identifier Number (RIN). Additional information (for detailed list, see section heading "Explanation of Information on the Agenda") on these entries is available in the Unified Agenda published on the internet.

## Request for Comments

### General

Our Agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information, as well as making the Agenda easier to use. We would like you, the public, to make suggestions or comments on how the Agenda could be further improved.

### Reviews

We also seek your suggestions on which of our existing regulations you believe need to be reviewed to determine whether they should be revised or revoked. We particularly draw your attention to the Department's review plan in appendix D.

### Regulatory Flexibility Act

The Department is especially interested in obtaining information on requirements that have a "significant economic impact on a substantial number of small entities" and, therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please submit them to us, along with your explanation of why they should be reviewed.

In accordance with the Regulatory Flexibility Act, comments are specifically invited on regulations that we have targeted for review under section 610 of the Act. The phrase (sec. 610 Review) appears at the end of the title for these reviews. Please see appendix D for the Department's section 610 review plans.

### Consultation With State, Local, and Tribal Governments

Executive Orders 13132 and 13175 require us to develop an account process to ensure "meaningful and timely input" by State, local, and tribal officials in the development of regulatory policies that have federalism or tribal implications. These policies are defined in the Executive orders to include regulations that have "substantial direct effects" on States or Indian tribes, on the relationship between the Federal Government and them, or on the distribution of power and responsibilities between the Federal Government and various levels of Government or Indian tribes. Therefore, we encourage State and local Governments or Indian tribes to provide us with information about how the Department's rulemakings impact them.

### Purpose

The Department is publishing this regulatory Agenda in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity and should result in more effective public participation. This publication in the **Federal Register** does not impose any binding obligation on the Department or any of the offices within the Department with regard to any specific item on the Agenda. Regulatory action, in addition to the items listed, is not precluded.

**Elaine L. Chao,**

*Secretary of Transportation.*

### Appendix A—Instructions for Obtaining Copies of Regulatory Documents

To obtain a copy of a specific regulatory document in the Agenda, you should communicate directly with the contact person listed with the regulation at the address below. We note that most, if not all, such documents, including the Semiannual Regulatory Agenda, are available through the internet at <http://www.regulations.gov>. See appendix C for more information.

### Appendix B—General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

FAA—Brandon Roberts, Acting Executive Director, Office of Rulemaking, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267-9677.

FHWA—Jennifer Outhouse, Office of Chief Counsel, 1200 New Jersey Avenue SE,

Washington, DC 20590; telephone (202) 366-0761.

FMCSA—Steven J. LaFreniere, Regulatory Ombudsman, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366-0596.

NHTSA—Dee Fujita, Office of Chief Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366-2992.

FRA—Amanda Maizel, Office of Chief Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 493-8014.

FTA—Chaya Koffman, Office of Chief Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366-3101.

SLSDC—Carrie Mann Lavigne, Chief Counsel, 180 Andrews Street, Massena, NY 13662; telephone (315) 764-3200.

PHMSA—Stephen Gordon, Office of Chief Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366-1101.

MARAD—Gabriel Chavez, Office of Chief Counsel, Maritime Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366-2621.

OST—Jonathan Moss, Assistant General Counsel for Regulation, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366-4723.

### Appendix C—Public Rulemaking Dockets

All comments via the internet are submitted through the Federal Docket Management System (FDMS) at the following address: <http://www.regulations.gov>. The FDMS allows the public to search, view, download, and comment on all Federal agency rulemaking documents in one central online system. The above referenced internet address also allows the public to sign up to receive notification when certain documents are placed in the dockets.

The public also may review regulatory dockets at or deliver comments on proposed rulemakings to the Dockets Office at 1200 New Jersey Avenue SE, Room W12-140, Washington, DC 20590, 1-800-647-5527. Working Hours: 9:00 a.m. to 5:00 p.m.

### Appendix D—Review Plans for Section 610 and Other Requirements

#### Part I—The Plan

##### General

The Department of Transportation has long recognized the importance of regularly reviewing its existing regulations to determine whether they need to be revised or revoked. Our Regulatory Policies and Procedures require such reviews. We also have responsibilities under Executive Order 12866, "Regulatory Planning and Review," Executive Order 13563, "Improving Regulation and Regulatory Review," 76 FR 3821 (January 18, 2011), Executive Order 13771 "Reducing Regulation and Controlling Regulatory Costs," Executive Order 13777, "Enforcing the Regulatory Agenda," and section 610 of the Regulatory Flexibility Act to conduct such reviews. This includes the designation of a Regulatory Reform Officer,

the establishment of a Regulatory Reform Task Force, and the use of plain language techniques in new rules and considering its use in existing rules when we have the opportunity and resources to revise them. We are committed to continuing our reviews of existing rules and, if it is needed, will initiate rulemaking actions based on these reviews. The Department began a new 10-year review cycle with the Fall 2018 Agenda.

#### Section 610 Review Plan

Section 610 requires that we conduct reviews of rules that: (1) Have been published within the last 10 years; and (2) have a “significant economic impact on a substantial number of small entities” (SEISNOSE). It also requires that we publish in the **Federal Register** each year a list of any such rules that we will review during the next year. The Office of the Secretary and each of the Department’s Operating Administrations have a 10-year review plan. These reviews comply with section 610 of the Regulatory Flexibility Act.

#### Changes to the Review Plan

Some reviews may be conducted earlier than scheduled. For example, to the extent resources permit, the plain language reviews will be conducted more quickly. Other events, such as accidents, may result in the need to conduct earlier reviews of some rules. Other factors may also result in the need to make changes; for example, we may make changes in response to public comment on this plan or in response to a presidentially mandated review. If there is any change to the review plan, we will note the change in the following Agenda. For any section 610 review, we will provide the required notice prior to the review.

### Part II—The Review Process

#### The Analysis

Generally, the agencies have divided their rules into 10 different groups and plan to analyze one group each year. For purposes of

these reviews, a year will coincide with the fall-to-fall schedule for publication of the Agenda. Most agencies provide historical information about the reviews that have occurred over the past 10 years. Thus, Year 1 (2018) begins in the fall of 2018 and ends in the fall of 2019; Year 2 (2019) begins in the fall of 2019 and ends in the fall of 2020, and so on. The exception to this general rule is the FAA, which provides information about the reviews it completed for this year and prospective information about the reviews it intends to complete in the next 10 years. Thus, for FAA Year 1 (2017) begins in the fall of 2017 and ends in the fall of 2018; Year 2 (2018) begins in the fall of 2018 and ends in the fall of 2019, and so on. We request public comment on the timing of the reviews. For example, is there a reason for scheduling an analysis and review for a particular rule earlier than we have? Any comments concerning the plan or analyses should be submitted to the regulatory contacts listed in appendix B, General Rulemaking Contact Persons.

#### Section 610 Review

The agency will analyze each of the rules in a given year’s group to determine whether any rule has a SEISNOSE and, thus, requires review in accordance with section 610 of the Regulatory Flexibility Act. The level of analysis will, of course, depend on the nature of the rule and its applicability. Publication of agencies’ section 610 analyses listed each fall in this Agenda provides the public with notice and an opportunity to comment consistent with the requirements of the Regulatory Flexibility Act. We request that public comments be submitted to us early in the analysis year concerning the small entity impact of the rules to help us in making our determinations.

In each Fall Agenda, the agency will publish the results of the analyses it has completed during the previous year. For rules that had a negative finding on SEISNOSE, we will give a short explanation

(e.g., “these rules only establish petition processes that have no cost impact” or “these rules do not apply to any small entities”). For parts, subparts, or other discrete sections of rules that do have a SEISNOSE, we will announce that we will be conducting a formal section 610 review during the following 12 months. At this stage, we will add an entry to the Agenda in the pre-rulemaking section describing the review in more detail. We also will seek public comment on how best to lessen the impact of these rules and provide a name or docket to which public comments can be submitted. In some cases, the section 610 review may be part of another unrelated review of the rule. In such a case, we plan to clearly indicate which parts of the review are being conducted under section 610.

#### Other Reviews

The agency will also examine the specified rules to determine whether any other reasons exist for revising or revoking the rule or for rewriting the rule in plain language. In each Fall Agenda, the agency will also publish information on the results of the examinations completed during the previous year.

### Part III—List of Pending Section 610 Reviews

The Agenda identifies the pending DOT section 610 Reviews by inserting “(Section 610 Review)” after the title for the specific entry. For further information on the pending reviews, see the Agenda entries at [www.reginfo.gov](http://www.reginfo.gov). For example, to obtain a list of all entries that are in section 610 Reviews under the Regulatory Flexibility Act, a user would select the desired responses on the search screen (by selecting “advanced search”) and, in effect, generate the desired “index” of reviews.

### Office of the Secretary

#### Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	49 CFR parts 91 through 99, 14 CFR parts 200 through 212, 48 CFR parts 1201 through 1224.	2018	2019
2 .....	48 CFR parts 1227 through 1253 and new parts and subparts .....	2019	2020
3 .....	14 CFR parts 213 through 232 .....	2020	2021
4 .....	14 CFR parts 234 through 254 .....	2021	2022
5 .....	14 CFR parts 255 through 298 and 49 CFR part 40 .....	2022	2023
6 .....	14 CFR parts 300 through 373 .....	2023	2024
7 .....	14 CFR parts 374 through 398 .....	2024	2025
8 .....	14 CFR part 399 and 49 CFR parts 1 through 15 .....	2025	2026
9 .....	49 CFR parts 17 through 28 .....	2026	2027
10 .....	49 CFR parts 29 through 39 and parts 41 through 89 .....	2027	2028

#### Year 1 (Fall 2018) List of Rules That are Under Ongoing Analysis

- 49 CFR part 91—International Air Transportation Fair Competitive Practices
- 49 CFR part 92—Recovering Debts to the United States by Salary Offset
  - Section 610: OST conducted a Section 610 review of this part and found no SEISNOSE.

- General: The agency is aware of several outdated references to operating administrations within the Department that need to be updated. OST’s plain language review of these rules indicates no need for substantial revision.
- 49 CFR part 93—Aircraft Allocation

- 49 CFR part 98—Enforcement of Restrictions on Post-Employment Activities
- 49 CFR part 99—Employee Responsibilities and Conduct
- 14 CFR part 200—Definitions and Instructions
- 14 CFR part 201—Air Carrier Authority under Subtitle VII of Title 49 of the United States Code [Amended]

14 CFR part 203—Waiver of Warsaw Convention Liability Limits and Defenses  
 14 CFR part 204—Data to Support Fitness Determinations  
 14 CFR part 205—Aircraft Accident Liability Insurance  
 14 CFR part 206—Certificates of Public Convenience and Necessity: Special Authorizations and Exemptions  
 14 CFR part 207—Charter Trips by U.S. Scheduled Air Carriers  
 14 CFR part 208—Charter Trips by U.S. Charter Air Carriers  
 14 CFR part 211—Applications for Permits to Foreign Air Carriers  
 14 CFR part 212—Charter Rules for U.S. and Foreign Direct Air Carriers  
 48 CFR part 1201—Federal Acquisition Regulations System  
 48 CFR part 1202—Definitions of Words and Terms  
 48 CFR part 1203—Improper Business Practices and Personal Conflicts of Interest  
 48 CFR part 1204—Administrative Matters  
 48 CFR part 1205—Publicizing Contract Actions  
 48 CFR part 1206—Competition Requirements  
 48 CFR part 1207—Acquisition Planning  
 48 CFR part 1208–1210—[Reserved]  
 48 CFR part 1211—Describing Agency Needs  
 48 CFR part 1212—[Reserved]  
 48 CFR part 1213—Simplified Acquisition Procedures

48 CFR part 1214—Sealed Bidding  
 48 CFR part 1215—Contracting by Negotiation  
 48 CFR part 1216—Types of Contracts  
 48 CFR part 1217—Special Contracting Methods  
 48 CFR part 1218—[Reserved]  
 48 CFR part 1219—Small Business Programs  
 48 CFR part 1220–1221—[Reserved]  
 48 CFR part 1222—Application of Labor Laws to Government Acquisitions  
 48 CFR part 1223—Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace  
 48 CFR part 1224—Protection of Privacy and Freedom of Information  
 Year 2 (Fall 2019) List of Rules That Will Be Analyzed During the Next Year  
 48 CFR parts 1227 through 1253 and new parts and subparts  
 48 CFR part 1227—Patents, Data, and Copyrights  
 48 CFR part 1228—Bonds and Insurance  
 48 CFR part 1231—Contract Costs Principles and Procedures  
 48 CFR part 1232—Contract Financing  
 48 CFR part 1233—Protests, Disputes, and Appeals  
 48 CFR part 1235—Research and Development Contracting  
 48 CFR part 1236—Construction and Architect-Engineer Contracts  
 48 CFR part 1237—Service Contracting  
 48 CFR part 1239—Acquisition of Information Technology

48 CFR part 1242—Contract Administration and Audit Services  
 48 CFR part 1245—Government Contracting  
 48 CFR part 1246—Quality Assurance  
 48 CFR part 1247—Transportation  
 48 CFR part 1252—Solicitation Provisions and Contract Clauses  
 48 CFR part 1253—Forms

#### Federal Aviation Administration

##### Section 610 and Other Reviews

The Federal Aviation Administration (FAA) has elected to use the two-step, two-year process used by most Department of Transportation (DOT) modes in past plans. As such, the FAA has divided its rules into 10 groups as displayed in the table below. During the first year (the “*analysis year*”), all rules published during the previous 10 years within a 10% block of the regulations will be *analyzed* to identify those with a significant economic impact on a substantial number of small entities (SEISNOSE). During the second year (the “*review year*”), each rule identified in the analysis year as having a SEISNOSE will be *reviewed* in accordance with Section 610 (b) to determine if it should be continued without change or changed to minimize impact on small entities. Results of those reviews will be published in the DOT Semiannual Regulatory Agenda.

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	14 CFR parts 133 through 139 and parts 157 through 169 .....	2019	2020
2 .....	14 CFR parts 141 through 147 and parts 170 through 187 .....	2020	2021
3 .....	14 CFR parts 189 through 198 and parts 1 through 16 .....	2021	2022
4 .....	14 CFR parts 17 through 33 .....	2022	2023
5 .....	14 CFR parts 34 through 39 and parts 400 through 405 .....	2023	2024
6 .....	14 CFR parts 43 through 49 and parts 406 through 415 .....	2024	2025
7 .....	14 CFR parts 60 through 77 .....	2025	2026
8 .....	14 CFR parts 91 through 105 .....	2026	2027
9 .....	14 CFR parts 417 through 460 .....	2027	2028
10 .....	14 CFR parts 119 through 129 and parts 150 through 156 .....	2028	2029

#### Defining SEISNOSE for FAA Regulations

The RFA does not define “significant economic impact.” Therefore, there is no clear rule or number to determine when a significant economic impact occurs. However, the Small Business Administration (SBA) states that significance should be determined by considering the size of the business, the size of the competitor’s business and the impact the same regulation has on larger competitors.

Likewise, the RFA does not define “substantial number.” However, the legislative history of the RFA suggests

that a substantial number must be at least one but does not need to be an overwhelming percentage such as more than half. The SBA states that the substantiality of the number of small businesses affected should be determined on an industry-specific basis.

This analysis consisted of the following three steps:

1. Review of the number of small entities affected by the amendments to parts 133 through 139 and parts 157 through 169.
2. Identification and analysis of all amendments to parts 133 through 139 and parts 157 through 169 since 2009 to

determine whether any still have or now have a SEISNOSE.

3. Review of the FAA’s regulatory flexibility assessment of each amendment performed as required by the RFA.

#### Year 2 (2020) List of Rules To Be Analyzed the Next Year

14 CFR part 141—Pilot Schools  
 14 CFR part 142—Training Centers  
 14 CFR part 143—Reserved  
 14 CFR part 145—Repair Stations  
 14 CFR part 147—Aviation Maintenance Technician Schools  
 14 CFR part 170—Establishment and Discontinuance Criteria for Air

Traffic Control Services and Navigational Facilities

14 CFR part 171—Non-Federal Navigation Facilities

14 CFR part 183—Representatives of the Administrator

14 CFR part 185—Testimony by Employees and Production of Records in Legal Proceedings, and Service of Legal Process and Pleadings

14 CFR part 187—Fees

Year 2 (2019) List of Rules To Be Analyzed the Next Year

14 CFR part 133—Rotorcraft External-Load Operations

14 CFR part 135—Operating Requirements: Commuter and On Demand Operations and Rules Governing Persons on Board Such Aircraft

14 CFR part 136—Commercial Air Tours and National Parks Air Tour Management

14 CFR part 137—Agricultural Aircraft Operations

14 CFR part 139—Certification of Airports

14 CFR part 157—Notice of Construction, Alteration, Activation, and Deactivation of Airports

14 CFR part 158—Passenger Facility Charges

14 CFR part 161—Notice and Approval of Airport Noise and Access Restrictions

14 CFR part 169—Expenditure of Federal Funds for Nonmilitary Airports or Air Navigation Facilities Thereon

Year 1 (2018) List of Rules Analyzed and Summary of Results

14 CFR Part 133—Rotorcraft External-Load Operations

- *Section 610*: The agency conducted a Section 610 review of this part and found no SEISNOSE.

- *General*: No changes are needed. These regulations are cost effective and impose the least burden.

14 CFR Part 135—Operating Requirements: Commuter and on Demand Operations and Rules Governing Persons on Board Such Aircraft

- *Section 610*: The agency conducted a Section 610 review of this part and found *Amendment 135–129, 79 FR 9973, Feb. 21, 2014* section 135.117 Briefing of passengers before flight in 14 CFR 135 promulgated since January 2009 has a SEISNOSE within the meaning of the RFA.
- *General*: The FAA has considered a number of alternatives and has taken steps to minimize the impact on small entities in attempts to lower compliance costs for small entities, but could not go forward without compromising the safety for the industry. No revisions are needed.

14 CFR Part 136—Commercial Air Tours and National Parks Air Tour Management

- *Section 610*: The agency conducted a Section 610 review of this part and determined no amendments to 14 CFR part 136 published since 2009. Thus, no SEISNOSE exists in this part.
- *General*: No changes are needed.

14 CFR Part 137—Agricultural Aircraft Operations

- *Section 610*: The agency conducted a Section 610 review of this part and found no SEISNOSE.
- *General*: No changes are needed. These regulations are cost effective and impose the least burden.

14 CFR Part 139—Certification of Airports

- *Section 610*: The agency conducted a Section 610 review of this part and found no SEISNOSE.

- *General*: No changes are needed. These regulations are cost effective and impose the least burden.

14 CFR Part 157—Notice of Construction, Alteration, Activation, and Deactivation of Airports

- *Section 610*: The agency conducted a Section 610 review of this part and determined no amendments to 14 CFR part 136 published since 2009. Thus, no SEISNOSE exists in this part.
- *General*: No changes are needed.

14 CFR Part 158—Passenger Facility Charges

- *Section 610*: The agency conducted a Section 610 review of this part and determined no amendments to 14 CFR part 136 published since 2009. Thus, no SEISNOSE exists in this part.
- *General*: No changes are needed.

14 CFR Part 161—Notice and Approval of Airport Noise and Access Restrictions

- *Section 610*: The agency conducted a Section 610 review of this part and determined no amendments to 14 CFR part 136 published since 2009. Thus, no SEISNOSE exists in this part.
- *General*: No changes are needed.

14 CFR Part 169—Expenditure of Federal Funds for Nonmilitary Airports or Air Navigation Facilities Thereon

- *Section 610*: The agency conducted a Section 610 review of this part and determined no amendments to 14 CFR part 136 published since 2009. Thus, no SEISNOSE exists in this part.
- *General*: No changes are needed.

## Federal Highway Administration

### Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	None .....	2018	2019
2 .....	23 CFR parts 1 to 260 .....	2019	2020
3 .....	23 CFR parts 420 to 470 .....	2020	2021
4 .....	23 CFR part 500 .....	2021	2022
5 .....	23 CFR parts 620 to 637 .....	2022	2023
6 .....	23 CFR parts 645 to 669 .....	2023	2024
7 .....	23 CFR parts 710 to 924 .....	2024	2025
8 .....	23 CFR parts 940 to 973 .....	2025	2026
9 .....	23 CFR parts 1200 to 1252 .....	2026	2027
10 .....	New parts and subparts .....	2027	2028

## Federal-Aid Highway Program

The Federal Highway Administration (FHWA) has adopted regulations in title 23 of the CFR, chapter I, related to the Federal-Aid Highway Program. These

regulations implement and carry out the provisions of Federal law relating to the administration of Federal aid for highways. The primary law authorizing Federal aid for highways is chapter I of

title 23 of the U.S.C. 145, which expressly provides for a federally assisted State program. For this reason, the regulations adopted by the FHWA in title 23 of the CFR primarily relate to the

requirements that States must meet to receive Federal funds for construction and other work related to highways. Because the regulations in title 23 primarily relate to States, which are not defined as small entities under the Regulatory Flexibility Act, the FHWA believes that its regulations in title 23 do not have a significant economic impact on a substantial number of small entities. The FHWA solicits public comment on this preliminary conclusion.

Year 1 (Fall 2018) List of Rules Analyzed and a Summary of Results  
None.

Year 2 (Fall 2019) List of Rules That Will Be Analyzed During the Next Year

23 CFR part 1—General  
23 CFR part 140—Reimbursement  
23 CFR part 172—Procurement, management, and administration of engineering and design related services  
23 CFR part 180—Credit assistance for surface transportation projects

23 CFR part 190—Incentive payments for controlling outdoor advertising on the interstate system  
23 CFR part 192—Drug offender's driver's license suspension  
23 CFR part 200—Title VI program and related statutes—implementation and review procedures  
23 CFR part 230—External programs  
23 CFR part 260—Education and training programs

#### Federal Motor Carrier Safety Administration

##### Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	49 CFR parts 386 .....	2018	2019
2 .....	49 CFR part 385 .....	2019	2020
3 .....	49 CFR part 383 and 384 .....	2020	2021
4 .....	49 CFR parts 382 .....	2021	2022
5 .....	49 CFR part 387 .....	2022	2023
6 .....	49 CFR part 398 .....	2023	2024
7 .....	49 CFR part 392 .....	2024	2025
8 .....	49 CFR part 375 .....	2025	2026
9 .....	49 CFR part 367 .....	2026	2027
10 .....	49 CFR part 395 .....	2027	2028

#### Year 10 (Fall 2018) List of Rules With Ongoing Analysis

##### 49 CFR Part 395—Hours of Service (HOS) of Drivers

*Section 610:* FMCSA conducted a review of 49 CFR part 395, and found there was a significant economic impact on a substantial number of small entities (SEIOSNOSE). The rule restricts the number of hours that a commercial driver can operate a commercial motor vehicle (CMV). The SEIOSNOSE is driven by the potential loss of revenue that drivers and motor carriers could experience if they could operate without restriction. The Federal HOS regulations promote safe driving of CMV's by limiting on-duty driving time; thereby improving the likelihood that drivers have adequate time for restorative rest. Tangible benefits to small businesses include; streamlined operations, reduced operational cost, maximized productivity, lowered insurance, improved vehicle diagnostics, reduced administrative burden, and increased profits.

*General:* FMCSA currently is engaged in rulemakings that would: (1) Add

flexibilities to the HOS regulations; and (2) clarify the meaning of "agricultural commodities" whose transport is exempt from the HOS regulations if certain requirements are met. Aside from the issues being addressed in these rulemakings, FMCSA has determined that the regulatory value of the HOS regulations is significant and that it should be retained. The rule reduces fatigue related crashes, fatalities, and injuries. These regulations are written consistent with plain language guidelines, and uses clear and unambiguous language. The cost burden imposed on a small business is reasonable when compared to the benefits.

#### Year 1 (2019) List of Rules With Ongoing Analysis

49 CFR Part 386—Rules of Practice for Motor Carrier, Intermodal Equipment Provider, Broker, Freight Forwarder, and Hazardous Materials Proceedings

*Section 610:* FMCSA conducted a review of 49 CFR part 386, and found no SEIOSNOSE. 49 CFR part 386 is a permissive set of rules that establish

procedures and proceedings for respondents, petitioners, and others seeking relief from a determination of non-compliance with Federal Motor Carrier Safety Regulations or Hazardous Materials Regulations. The rule also provides a recourse for commercial drivers to report harassment or coercion. Although not required by the rule, a small business could elect to incur significant attorney and court fees to challenge an unfavorable decision.

*General:* There is no need for substantial revision. These regulations provide necessary/clear guidance to industry and drivers. The regulations are written consistent with plain language guidelines, are cost effective, and impose the least economic burden to industry.

#### Year 2 (2020) List of Rules That Will Be Analyzed During the Next Year

49 CFR Part 385—Safety Fitness Procedures

#### National Highway Traffic Safety Administration

##### Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	49 CFR parts 571.223 through 571.500, and parts 575 and 579 .....	2018	2019
2 .....	23 CFR parts 1200 and 1300 .....	2019	2020
3 .....	49 CFR parts 501 through 526 and 571.213 .....	2020	2021
4 .....	49 CFR parts 571.131, 571.217, 571.220, 571.221, and 571.222 .....	2021	2022
5 .....	49 CFR parts 571.101 through 571.110, and 571.135, 571.136, 571.138 and 571.139 .....	2022	2023
6 .....	49 CFR parts 571.141, 529 through 578, except parts 571 and 575 .....	2023	2024
7 .....	49 CFR parts 571.111 through 571.129 and 580 through 588 .....	2024	2025



Year	Regulations to be reviewed	Analysis year	Review year
8 .....	49 parts CFR 571.201 through 571.212 .....	2025	2026
9 .....	49 parts CFR 571.214 through 571.219, except 571.217 .....	2026	2027
10 .....	49 CFR parts 591 through 595 and new parts and subparts .....	2027	2028

Year 1 (Fall 2019) List of Rules With Ongoing Analysis

49 CFR part 571.223—Rear Impact Guards  
 49 CFR part 571.224—Rear Impact Protection  
 49 CFR part 571.225—Child Restraint Anchorage Systems  
 49 CFR part 571.226—Ejection Mitigation  
 49 CFR part 571.301—Fuel System Integrity  
 49 CFR part 571.302—Flammability of Interior Materials

49 CFR part 571.303—Fuel System Integrity of Compressed Natural Gas Vehicles  
 49 CFR part 571.304—Compressed Natural Gas Fuel Container Integrity  
 49 CFR part 571.305—Electric-Powered Vehicles; Electrolyte Spillage and Electrical Shock Protection  
 49 CFR part 571.401—Interior Trunk Release  
 49 CFR part 571.403—Platform Lift Systems for Motor Vehicles  
 49 CFR part 571.404—Platform Lift Installations in Motor Vehicles  
 49 CFR part 571.500—Low-Speed Vehicles

49 CFR part 575—Consumer Information  
 49 CFR part 579—Reporting of Information and Communications About Potential Defects  
 23 CFR part 1200—Uniform Procedures for State Highway Safety Grant Programs  
 23 CFR part 1300—Uniform Procedures for State Highway Safety Grant Programs

**Federal Railroad Administration**

*Section 610 and Other Reviews*

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	49 CFR parts 200, 207, 209, and 210 .....	2018	2019
2 .....	49 CFR parts 211, 212, 213, 214, and 215 .....	2019	2020
3 .....	49 CFR parts 216, 217, 218, 219, and 220 .....	2020	2021
4 .....	49 CFR parts 221, 222, 223, 224, and 225 .....	2021	2022
5 .....	49 CFR parts 227, 228, 229, 230, and 231 .....	2022	2023
6 .....	49 CFR parts 232, 233, 234, 235, and 236 .....	2023	2024
7 .....	49 CFR parts 237, 238, 249, 240, and 241 .....	2024	2025
8 .....	49 CFR parts 242, 243, 244, 250, and 256 .....	2025	2026
9 .....	49 CFR parts 261, 262, 264, 266, and 268 .....	2026	2027
10 .....	49 CFR parts 269, 270, and 272 .....	2027	2028

Year 1 (Fall 2018) List of Rules Analyzed and a Summary of Results

49 CFR Part 200—Informal Rules of Practice for Passenger Service

■ *Section 610:* There is no SEIOSNOSE.

■ *General:* The rule prescribes procedures under which applications are received and heard and by which rules and orders are issued primarily affecting the Class I railroads and Amtrak, none of which are small entities. FRA's plain language review of this rule indicates no need for substantial revision.

49 CFR Part 207—Railroad Police Officers

■ *Section 610:* There is no SEIOSNOSE.

■ *General:* No changes are needed. These regulations are cost effective and impose the least burden. FRA's plain language review of this rule indicates no need for substantial revision.

49 CFR Part 209—Railroad Safety Enforcement Procedures

■ *Section 610:* There is no SEIOSNOSE.

■ *General:* No changes are needed. These regulations are cost effective and impose the least burden. FRA's plain language review of this rule indicates no need for substantial revision.

49 CFR Part 210—Railroad Noise Emission Compliance Regulations

■ *Section 610:* There is no SEIOSNOSE.

■ *General:* To support high-speed rail operations, FRA has identified substantive changes to the regulations.

Year 2 (Fall 2019) List of Rules(s) That Will Be Analyzed During Next Year

49 CFR part 211—Rules of Practice  
 49 CFR part 212—State Safety Participation Regulations  
 49 CFR part 213—Track Safety Standards  
 49 CFR part 214—Railroad Workplace Safety  
 49 CFR part 215—Railroad Freight Car Safety Standards

**Federal Transit Administration**

*Section 610 and Other Reviews*

The Regulatory Flexibility Act of 1980 (RFA), as amended (sections 601

through 612 of title 5, United States Code), requires Federal regulatory agencies to analyze all proposed and final rules to determine their economic impact on small entities, which include small businesses, organizations, and governmental jurisdictions. Section 610 requires government agencies to periodically review all regulations that will have a significant economic impact on a substantial number of small entities (SEISNOSE).

In complying with this section, the Federal Transit Administration (FTA) has elected to use the two-step, two-year process used by most Department of Transportation (DOT) modes. As such, FTA has divided its rules into 10 groups as displayed in the table below. During the analysis year, the listed rules will be analyzed to identify those with a SEISNOSE. During the review year, each rule identified in the analysis year as having a SEISNOSE will be reviewed in accordance with Section 610(b) to determine if it should be continued without change or changed to minimize the impact on small entities.

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	49 CFR parts 604, 605, and 624 .....	2018	2019
2 .....	49 CFR parts 609 and 640 .....	2019	2020
3 .....	49 CFR part 633 .....	2020	2021
4 .....	49 CFR part 611 .....	2021	2022
5 .....	49 CFR part 655 .....	2022	2023
6 .....	49 CFR parts 602 and 614 .....	2023	2024
7 .....	49 CFR parts 661 and 663 .....	2024	2025
8 .....	49 CFR parts 625, 630, and 665 .....	2025	2026
9 .....	49 CFR parts 613, 622, 670 and 674 .....	2026	2027
10 .....	49 CFR parts 650, 672 and 673 .....	2027	2028

#### Year 1 (2019) List of Rules Analyzed and Summary of Results

##### 49 CFR Part 609—Transportation for Elderly and Handicapped Persons

• *Section 610:* FTA conducted a Section 610 review of 49 CFR part 609 and determined that it would not result in a SEISNOSE within the meaning of the RFA. The rule ensures that applicants for financial assistance under section 5307 of title 49, United States Code, as a condition of receiving such assistance, provide half-fares for elderly and handicapped persons during non-peak hours for transportation utilizing or involving the facilities and

equipment of the project financed with FTA assistance.

• *General:* No changes are needed. FTA estimated the costs and projected benefits of the rule and believes it is cost-effective and imposes the least burden. FTA's plain language review of this rule indicates no need for substantial revision.

##### 49 CFR Part 640—Credit Assistance for Surface Transportation Projects

• *Section 610:* FTA conducted a Section 610 review of 49 CFR part 640 and determined that it would not result in a SEISNOSE within the meaning of the RFA. The regulation is a cross-reference to the Department of

Transportation's Credit Assistance for Surface Transportation Projects regulation at 49 CFR part 80. FTA does not own the cross-referenced regulation and, accordingly, cannot make changes or determine whether it is a SEISNOSE within the meaning of the RFA.

• *General:* No changes are needed. The regulation is a cross-reference to a DOT regulation.

#### Year 2 (2020) List of Rules To Be Analyzed the Next Year

##### 49 CFR Part 633—Project Management Oversight

#### Maritime Administration

##### Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	46 CFR parts 201 through 205, 46 CFR parts 315 through 340, 46 CFR part 345 through 347, and 46 CFR parts 381 and 382 .....	2018	2019
2 .....	46 CFR parts 221 through 232 .....	2019	2020
3 .....	46 CFR parts 249 through 296 .....	2020	2021
4 .....	46 CFR parts 221, 298, 308, and 309 .....	2021	2022
5 .....	46 CFR parts 307 through 309 .....	2022	2023
6 .....	46 CFR part 310 .....	2023	2024
7 .....	46 CFR parts 315 through 340 .....	2024	2025
8 .....	46 CFR parts 345 through 381 .....	2025	2026
9 .....	46 CFR parts 382 through 389 .....	2026	2027
10 .....	46 CFR parts 390 through 393 .....	2027	2028

#### Year 1 (2018) List of Rules With Ongoing Analysis

##### 46 CFR part 201—Rules of Practice and Procedure

##### 46 CFR part 202—Procedures relating to review by Secretary of Transportation of actions by Maritime Subsidy Board

##### 46 CFR part 203—Procedures relating to conduct of certain hearings under the Merchant Marine Act, 1936, as amended

##### 46 CFR part 204—Claims against the Maritime Administration under the Federal Tort Claims Act

##### 46 CFR part 205—Audit Appeals; Policy and Procedure

##### 46 CFR part 315—Agency Agreements and Appointment of Agents

##### 46 CFR part 317—Bonding of Ship's Personnel

##### 46 CFR part 324—Procedural Rules for Financial Transactions Under Agency Agreements

##### 46 CFR part 325—Procedure to Be Followed by General Agents in Preparation of Invoices and Payment of Compensation Pursuant to Provisions of NSA Order No. 47

##### 46 CFR part 326—Marine Protection and Indemnity Insurance Under Agreements with Agents

##### 46 CFR part 327—Seamen's Claims; Administrative Action and Litigation

##### 46 CFR part 328—Slop Chests

##### 46 CFR part 329—Voyage Data

##### 46 CFR part 330—Launch Services

##### 46 CFR part 332—Repatriation of Seamen

##### 46 CFR part 335—Authority and Responsibility of General Agents to

##### Undertake Emergency Repairs in Foreign Ports

##### 46 CFR part 336—Authority and Responsibility of General Agents to Undertake in Continental United States Ports Voyage Repairs and Service Equipment of Vessels Operated for the Account of The National Shipping Authority Under General Agency Agreement

##### 46 CFR part 337—General Agent's Responsibility in Connection with Foreign Repair Custom's Entries

##### 46 CFR part 338—Procedure for Accomplishment of Vessel Repairs Under National Shipping Authority Master Lump Sum Repair Contract—NSA-Lumpsumrep

##### 46 CFR part 339—Procedure for Accomplishment of Ship Repairs Under National Shipping Authority

Individual Contract for Minor Repairs—NSA-Worksmalrep  
46 CFR part 340—Priority Use and Allocation of Shipping Services, Containers and Chassis, and Port Facilities and Services for National Security and National Defense Related Operations  
46 CFR part 345—Restrictions Upon the Transfer or Change in Use or In Terms Governing Utilization of Port Facilities

46 CFR part 346—Federal Port Controllers  
46 CFR part 347—Operating Contract  
46 CFR part 381—Cargo Preference—U.S.-Flag Vessels  
46 CFR part 382—Determination of Fair and Reasonable Rates for the Carriage of Bulk and Packaged Preference Cargoes on U.S.-Flag Commercial Vessels Year 2 (Fall 2019) List of rules that will be analyzed during the next year

46 CFR parts 221 and 232  
46 CFR part 221 Regulated Transactions Involving Documented Vessels and Other Maritime Interests  
46 CFR part 232 Uniform Financial Reporting Requirements

### **Pipeline and Hazardous Materials Safety Administration (PHMSA)**

#### *Section 610 and Other Reviews*

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	49 CFR part 178 .....	2018	2019
2 .....	49 CFR parts 178 through 180 .....	2019	2020
3 .....	49 CFR parts 172 and 175 .....	2020	2021
4 .....	49 CFR part 171, sections 171.15 and 171.16 .....	2021	2022
5 .....	49 CFR parts 106, 107, 171, 190, and 195 .....	2022	2023
6 .....	49 CFR parts 174, 177, and 199 .....	2023	2024
7 .....	49 CFR parts 176, 191 and 192 .....	2024	2025
8 .....	49 CFR parts 172 and 178 .....	2025	2026
9 .....	49 CFR parts 172, 173, 174, 176, 177, and 193 .....	2026	2027
10 .....	49 CFR parts 173 and 194 .....	2027	2028

#### **Year 2 (Fall 2020) List of Rules Analyzed and a Summary of Results**

49 CFR Part 178—Specifications for Packaging, 49 CFR Part 179—Specifications for Tank Cars, 49 CFR part 180—Continuing Qualification and Maintenance of Packaging's

- *Section 610:* PHMSA conducted a review of this part and found no SEISNOSE.

- *General:* PHMSA has reviewed these parts and found that while these parts do not have SEISNOSE, they could be streamlined to reflect new technologies and updated to reflect current practices. Therefore, even though the review indicated that the economic impact on small entities is not significant, PHMSA has initiated multiple deregulatory rulemakings to reduce the compliance burdens of parts 178, 179, and 180. Further, PHMSA's plain language review of these parts indicates no need for substantial revision. Where confusing or wordy language has been identified, PHMSA plans to propose or finalize revisions in the upcoming modal rulemaking as well as other deregulatory rulemakings.

As an example, the Modal Regulatory Reforms Initiatives, 2137-AF41, rulemaking action is part of PHMSA's response to clarify current regulatory requirements and address public comments received to the Department's regulatory reform and infrastructure notices. This rulemaking also proposes to address a variety of petitions for rulemaking, specific to modal stakeholders, and other issues identified by PHMSA during its regulatory review.

The impact that the 2137-AF41 rulemaking will have on small entities is not expected to be significant. The rulemaking is based on PHMSA's initiatives and correspondence with the regulated community, and PHMSA working in conjunction with its modal partners, including FMCSA, FRA, and the United States Coast Guard (USCG). The proposed changes are generally intended to provide relief or clarity and, as a result, positive economic benefits to shippers, carriers, and packaging manufacturers and testers, including small entities. In conclusion, many companies are expecting to realize economic benefits, because of the

proposed amendments in the 2137-AF41 rulemaking. The proposed amendments are expected to result in an overall net cost savings and ease the regulatory compliance burden for shippers, carriers, manufacturers, and requalifiers, specifically those modal-specific packaging and requalification requirements. This rulemaking is one example of PHMSA's review of rulemakings which ensures that our rules do not have a significant economic impact on a substantial number of small entities.

#### **Year 3 (Fall 2021) List of Rules That Will Be Analyzed During the Next Year**

49 CFR part 172—Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, Training Requirements, and Security Plans

49 CFR part 175—Carriage by Aircraft

### **Saint Lawrence Seaway Development Corporation**

#### *Section 610 and Other Reviews*

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	* 33 CFR parts 401 through 403 .....	2018	2019

\* The review for these regulations is recurring each year of the 10-year review cycle (currently 2018 through 2027).

#### **Year 1 (Fall 2018) List of Rules That Will Be Analyzed During the Next Year**

33 CFR part 401—Seaway Regulations and Rules

33 CFR part 402—Tariff of Tolls  
33 CFR part 403—Rules of Procedure of the Joint Tolls Review Board

## OFFICE OF THE SECRETARY—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
161 .....	Defining Unfair or Deceptive Practices .....	2105-AE72
162 .....	+ Accessible Lavatories on Single-Aisle Aircraft: Part I ( <b>Rulemaking Resulting From a Section 610 Review</b> ).	2105-AE88

+ DOT-designated significant regulation.

## FEDERAL AVIATION ADMINISTRATION—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
163 .....	+ Applying the Flight, Duty, and Rest Rules of 14 CFR Part 135 to Tail-End Ferry Operations (FAA Reauthorization).	2120-AK26

+ DOT-designated significant regulation.

## FEDERAL AVIATION ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
164 .....	+ Pilot Records Database (HR 5900) .....	2120-AK31

+ DOT-designated significant regulation.

## FEDERAL AVIATION ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
165 .....	+ Airport Safety Management System .....	2120-AJ38
166 .....	+ Registration and Marking Requirements for Small Unmanned Aircraft .....	2120-AK82
167 .....	+ Operations of Small Unmanned Aircraft Over People .....	2120-AK85

+ DOT-designated significant regulation.

## FEDERAL AVIATION ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
168 .....	+ Regulation Of Flight Operations Conducted By Alaska Guide Pilots .....	2120-AJ78
169 .....	+ Drug and Alcohol Testing of Certain Maintenance Provider Employees Located Outside of the United States.	2120-AK09
170 .....	+ Aircraft Registration and Airmen Certification Fees .....	2120-AK37
171 .....	+ Helicopter Air Ambulance Pilot Training and Operational Requirements (HAA II) (FAA Reauthorization) ..	2120-AK57
172 .....	Requirements to File Notice of Construction of Meteorological Evaluation Towers and Other Renewable Energy Projects (Section 610 Review).	2120-AK77

+ DOT-designated significant regulation.

## FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
173 .....	+ Controlled Substances and Alcohol Testing: State Driver's Licensing Agency Downgrade of Commercial Driver's License (Section 610 Review).	2126-AC11

+ DOT-designated significant regulation.

## FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
174 .....	+ Safety Monitoring System and Compliance Initiative for Mexico-Domiciled Motor Carriers Operating in the United States.	2126-AA35

+ DOT-designated significant regulation.

## SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
175 .....	Tariff of Tolls (Rulemaking Resulting From a Section 610 Review) .....	2135-AA47
176 .....	Seaway Regulations and Rules: Periodic Update, Various Categories (Rulemaking Resulting From a Section 610 Review).	2135-AA48

## PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
177 .....	+ Pipeline Safety: Amendments to Parts 192 and 195 to require Valve installation and Minimum Rupture Detection Standards.	2137-AF06

+ DOT-designated significant regulation.

## PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
178 .....	+ Hazardous Materials: Enhanced Safety Provisions for Lithium Batteries Transported by Aircraft (FAA Reauthorization Act of 2018).	2137-AF20

+ DOT-designated significant regulation.

## DEPARTMENT OF TRANSPORTATION (DOT)

Office of the Secretary (OST)

Final Rule Stage

## 161. Defining Unfair or Deceptive Practices

*E.O. 13771 Designation:* Deregulatory.*Legal Authority:* 49 U.S.C. 41712

*Abstract:* This rulemaking would define the phrase “unfair or deceptive practice” found in the Department’s aviation consumer protection statute. The Department’s statute is modeled after a similar statute granting the Federal Trade Commission (FTC) the authority to regulate unfair or deceptive practices. Using the FTC’s policy statements as a guide, the Department has found a practice to be unfair if it causes or is likely to cause substantial harm, the harm cannot reasonably be avoided, and the harm is not outweighed by any countervailing benefits to consumers or to competition. Likewise, the Department has found a practice to be deceptive if it misleads or is likely to mislead a consumer acting reasonably under the circumstances with respect to a material issue (one that is likely to affect the consumer’s decision with regard to a product or service). This rulemaking would codify the Department’s existing interpretation of “unfair or deceptive practice,” and seek comment on any whether changes are needed. The rulemaking would also require the Department to articulate in future enforcement orders the basis for concluding that a practice is unfair or

deceptive where no existing regulation governs the practice in question, state the basis for its conclusion that a practice is unfair or deceptive when it issues discretionary aviation consumer protection regulations, and apply formal hearing procedures for discretionary aviation consumer protection rulemakings. In addition, this rulemaking would codify the longstanding practice of the Department to offer airlines and ticket agents the opportunity to be heard and present relevant evidence before any determination is made on how to resolve a matter involving a potential unfair or deceptive practice.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/28/20	85 FR 11881
NPRM Comment Period End.	04/28/20	
Final Rule .....	11/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Blane A. Workie, Assistant General Counsel, Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue SE, Washington, DC 20590 *Phone:* 202–366–9342, *Fax:* 202–366–7153, *Email:* [blane.workie@ost.dot.gov](mailto:blane.workie@ost.dot.gov).

*RIN:* 2105–AE72

## 162. +Accessible Lavatories on Single-Aisle Aircraft: Part I (Rulemaking Resulting From a Section 610 Review)

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 49 U.S.C. 41705; FAA Reauthorization Act of 2016, Pub. L. 114–190, 130 Stat. 615, 622

*Abstract:* This rulemaking would require airlines to take steps to improve the accessibility of lavatories on single-aisle aircraft short of increasing the size of the lavatories. The rulemaking would ensure the accessibility of features within an aircraft lavatory, including but not limited to, toilet seat, assist handles, faucets, flush control, attendant call buttons, lavatory controls and dispensers, lavatory door sill, and door locks. The rulemaking would also consider standards for the on-board wheelchair to improve its safety/maneuverability and easily permit its entry into the aircraft lavatory.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/02/20	85 FR 27
NPRM Comment Period End.	03/02/20	
Final Rule .....	12/00/20	

*Regulatory Flexibility Analysis**Required:* No.

*Agency Contact:* Blane A. Workie, Assistant General Counsel, Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202–366–9342, *Fax:* 202–366–7153, *Email:* [blane.workie@ost.dot.gov](mailto:blane.workie@ost.dot.gov).

*RIN:* 2105–AE88

**DEPARTMENT OF TRANSPORTATION (DOT)**

*Federal Aviation Administration (FAA)*  
Prerule Stage

**163. +Applying the Flight, Duty, and Rest Rules of 14 CFR Part 135 to Tail-End Ferry Operations (FAA Reauthorization)**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 49 U.S.C. 106(f); 49 U.S.C. 106(g); 49 U.S.C. 1153; 49 U.S.C. 40101; 49 U.S.C. 40102; 49 U.S.C. 40103; 49 U.S.C. 40113; 49 U.S.C. 41706; 49 U.S.C. 44105; 49 U.S.C. 44106; 49 U.S.C. 44111; 49 U.S.C. 44701 to 44717; 49 U.S.C. 44722; 49 U.S.C. 44901; 49 U.S.C. 44903; 49 U.S.C. 44904; 49 U.S.C. 44906; 49 U.S.C. 44912; 49 U.S.C. 44914; 49 U.S.C. 44936; 49 U.S.C. 44938; 49 U.S.C. 45101 to 45105; 49 U.S.C. 46103

*Abstract:* This rulemaking would require a flightcrew member who is employed by an air carrier conducting operations under part 135, and who accepts an additional assignment for flying under part 91 from the air carrier or from any other air carrier conducting operations under part 121 or 135, to apply the period of the additional assignment toward any limitation applicable to the flightcrew member relating to duty periods or flight times under part 135.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	10/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dale Roberts, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, Phone: 202 267-5749, Email: dale.roberts@faa.gov.  
RIN: 2120-AK26

**DEPARTMENT OF TRANSPORTATION (DOT)**

*Federal Aviation Administration (FAA)*  
Proposed Rule Stage

**164. +Pilot Records Database (HR 5900)**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 49 U.S.C. 106(f); 49 U.S.C. 106(g); 49 U.S.C. 1155; 49 U.S.C. 40103; 49 U.S.C. 40113; 49 U.S.C. 40119; 49 U.S.C. 40120; 49 U.S.C. 41706; 49 U.S.C. 44101; 49 U.S.C. 44111; 49 U.S.C. 44701 to 44705; 49 U.S.C. 44709 to 44713; 49 U.S.C. 44715 to 44717; 49 U.S.C. 44722; 49 U.S.C.

45101 to 45105; 49 U.S.C. 46105; 49 U.S.C. 46306; 49 U.S.C. 46315; 49 U.S.C. 46316; 49 U.S.C. 46504; 49 U.S.C. 46507; 49 U.S.C. 47122; 49 U.S.C. 47508; 49 U.S.C. 47528 to 47531

*Abstract:* This rulemaking would implement a Pilot Records Database as required by Public Law 111-216 (Aug. 1, 2010). Section 203 amends the Pilot Records Improvement Act by requiring the FAA to create a pilot records database that contains various types of pilot records. These records would be provided by the FAA, air carriers, and other persons who employ pilots. The FAA must maintain these records until it receives notice that a pilot is deceased. Air carriers would use this database to perform a record check on a pilot prior to making a hiring decision.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/30/20	85 FR 17660
NPRM Comment Period End.	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Christopher Morris, Department of Transportation, Federal Aviation Administration, 6500 S MacArthur Boulevard, Oklahoma City, OK 73169, Phone: 405 954-4646, Email: christopher.morris@faa.gov.  
RIN: 2120-AK31

**DEPARTMENT OF TRANSPORTATION (DOT)**

*Federal Aviation Administration (FAA)*  
Final Rule Stage

**165. +Airport Safety Management System**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 49 U.S.C. 44706; 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 44701 to 44706; 49 U.S.C. 44709; 49 U.S.C. 44719

*Abstract:* This rulemaking would require certain airport certificate holders to develop, implement, maintain, and adhere to a safety management system (SMS) for its aviation related activities. An SMS is a formalized approach to managing safety by developing an organization-wide safety policy, developing formal methods of identifying hazards, analyzing and mitigating risk, developing methods for ensuring continuous safety improvement, and creating organization-wide safety promotion strategies.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/07/10	75 FR 62008
NPRM Comment Period Extended.	12/10/10	75 FR 76928
NPRM Comment Period End.	01/05/11	
End of Extended Comment Period.	03/07/11	
Second Extension of Comment Period.	03/07/11	76 FR 12300
End of Second Extended Comment Period.	07/05/11	
Second NPRM ....	07/14/16	81 FR 45871
Second NPRM Comment Period End.	09/12/16	
Final Rule .....	12/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* James Schroeder, Office of Airport Safety and Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, Phone: 202 267-4974, Email: james.schroeder@faa.gov.

RIN: 2120-AJ38

**166. +Registration and Marking Requirements for Small Unmanned Aircraft**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 49 U.S.C. 106(f), 49 U.S.C. 41703, 44101 to 44106, 44110 to 44113, and 44701

*Abstract:* This rulemaking would provide an alternative, streamlined and simple, web-based aircraft registration process for the registration of small unmanned aircraft, including small unmanned aircraft operated as model aircraft, to facilitate compliance with the statutory requirement that all aircraft register prior to operation. It would also provide a simpler method for marking small unmanned aircraft that is more appropriate for these aircraft. This action responds to public comments received regarding the proposed registration process in the Operation and Certification of Small Unmanned Aircraft notice of proposed rulemaking, the request for information regarding unmanned aircraft system registration, and the recommendations from the Unmanned Aircraft System Registration Task Force.

*Timetable:*

Action	Date	FR Cite
Interim Final Rule	12/16/15	80 FR 78593
Interim Final Rule Effective.	12/21/15	

Action	Date	FR Cite
OMB Approval of Information Collection.	12/21/15	80 FR 79255
Interim Final Rule Comment Period End.	01/15/16	
Final Rule .....	12/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Bonnie Lefko, Department of Transportation, Federal Aviation Administration, 6500 S MacArthur Boulevard, Registry Building 26, Room 118, Registry Building 26, Room 118, Oklahoma City, OK 73169, *Phone:* 405 954-7461, *Email:* bonnie.lefko@faa.gov.

*RIN:* 2120-AK82

#### 167. +Operations of Small Unmanned Aircraft Over People

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 49 U.S.C. 106(f); 49 U.S.C. 40101; 49 U.S.C. 40103(b); 49 U.S.C. 44701(a)(5); Pub. L. 112-95, sec. 333

*Abstract:* This rulemaking would address the performance-based standards and means-of-compliance for operation of small unmanned aircraft systems (UAS) over people not directly participating in the operation or not under a covered structure or inside a stationary vehicle that can provide reasonable protection from a falling small unmanned aircraft. This rule would provide relief from certain operational restrictions implemented in the Operation and Certification of Small Unmanned Aircraft Systems final rule (RIN 2120-AJ60).

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/13/19	84 FR 3856
NPRM Comment Period End.	04/19/19	
Final Rule .....	12/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Guido Hassig, Department of Transportation, Federal Aviation Administration, 1 Airport Way, Rochester, NY 14624, *Phone:* 585-436-3880, *Email:* guido.hassig@faa.gov.

*RIN:* 2120-AK85

## DEPARTMENT OF TRANSPORTATION (DOT)

*Federal Aviation Administration (FAA)*

Long-Term Actions

#### 168. +Regulation of Flight Operations Conducted by Alaska Guide Pilots

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 49 U.S.C. 106(g) ; 49 U.S.C. 1153; 49 U.S.C. 1155; 49 U.S.C. 40101 to 40103; 49 U.S.C. 40113; 49 U.S.C. 40120; 49 U.S.C. 44101; 49 U.S.C. 44105 to 44016; 49 U.S.C. 44111; 49 U.S.C. 44701 to 44717; 49 U.S.C. 44722; 49 U.S.C. 44901; 49 U.S.C. 44903 to 44904; 49 U.S.C. 44906; 49 U.S.C. 44912; 49 U.S.C. 44914; 49 U.S.C. 44936; 49 U.S.C. 44938; 49 U.S.C. 46103; 49 U.S.C. 46105; 49 U.S.C. 46306; 49 U.S.C. 46315 to 46316; 49 U.S.C. 46504; 49 U.S.C. 46506 to 46507; 49 U.S.C. 47122; 49 U.S.C. 47508; 49 U.S.C. 47528 to 47531; Articles 12 and 29 of 61 Stat. 1180; Pub. L. 106-181, sec. 732

*Abstract:* The rulemaking would establish regulations concerning Alaska guide pilot operations. The rulemaking would implement Congressional legislation and establish additional safety requirements for the conduct of these operations. The intended effect of this rulemaking is to enhance the level of safety for persons and property transported in Alaska guide pilot operations. In addition, the rulemaking would add a general provision applicable to pilots operating under the general operating and flight rules concerning falsification, reproduction, and alteration of applications, logbooks, reports, or records. This rulemaking is a statutory mandate under section 732 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, (Pub. L. 106-181).

*Timetable:* Next Action Undetermined.

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jeff Smith, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20785, *Phone:* 202 385-9615, *Email:* jeffrey.smith@faa.gov.

*RIN:* 2120-AJ78

#### 169. +Drug and Alcohol Testing of Certain Maintenance Provider Employees Located Outside of the United States

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 44701; 49 U.S.C. 44702; 49 U.S.C. 44707; 49 U.S.C. 44709; 49 U.S.C. 44717

*Abstract:* This rulemaking would require controlled substance testing of some employees working in repair stations located outside the United States. The intended effect is to increase participation by companies outside of the United States in testing of employees who perform safety critical functions and testing standards similar to those used in the repair stations located in the United States. This action is necessary to increase the level of safety of the flying public. This rulemaking is a statutory mandate under section 308(d) of the FAA Modernization and Reform Act of 2012 (Pub. L. 112-95).

*Timetable:*

Action	Date	FR Cite
ANPRM .....	03/17/14	79 FR 14621
Comment Period Extended.	05/01/14	79 FR 24631
ANPRM Comment Period End.	05/16/14	
Comment Period End.	07/17/14	
NPRM .....	06/00/21	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Julia Brady, Program Analyst, Program Policy Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, *Phone:* 202 267-8083, *Email:* julia.brady@faa.gov.

*RIN:* 2120-AK09

#### 170. +Aircraft Registration and Airmen Certification Fees

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 31 U.S.C. 9701; 4 U.S.T. 1830; 49 U.S.C. 106(f); 49 U.S.C. 106(g); 49 U.S.C. 106(l)(6); 49 U.S.C. 40104; 49 U.S.C. 40105; 49 U.S.C. 40109; 49 U.S.C. 40113; 49 U.S.C. 40114; 49 U.S.C. 44101 to 44108; 49 U.S.C. 44110 to 44113; 49 U.S.C. 44701 to 44704; 49 U.S.C. 44707; 49 U.S.C. 44709 to 44711; 49 U.S.C. 44713; 49 U.S.C. 45102; 49 U.S.C. 45103; 49 U.S.C. 45301; 49 U.S.C. 45302; 49 U.S.C. 45305; 49 U.S.C. 46104; 49 U.S.C. 46301; Pub. L. 108-297, 118 Stat. 1095

*Abstract:* This rulemaking would establish fees for airman certificates, medical certificates, and provision of legal opinions pertaining to aircraft registration or recordation. This rulemaking also would revise existing fees for aircraft registration, recording of security interests in aircraft or aircraft parts, and replacement of an airman certificate. This rulemaking addresses provisions of the FAA Modernization and Reform Act of 2012. This

rulemaking is intended to recover the estimated costs of the various services and activities for which fees would be established or revised.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/21	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Isra Raza, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, *Phone:* 202 267–8994, *Email:* [isra.raza@faa.gov](mailto:isra.raza@faa.gov).

*RIN:* 2120–AK37

**171. +Helicopter Air Ambulance Pilot Training and Operational Requirements (HAA II) (FAA Reauthorization)**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 49 U.S.C. 106(f); 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 41706; 49 U.S.C. 44701; 49 U.S.C. 44702; 49 U.S.C. 44705; 49 U.S.C. 44709; 49 U.S.C. 44711 to 44713; 49 U.S.C. 44715 to 44717; 49 U.S.C. 44722; 49 U.S.C. 44730; 49 U.S.C. 45101 to 45105

*Abstract:* This rulemaking would develop training requirements for crew resource management, flight risk evaluation, and operational control of the pilot in command, as well as to develop standards for the use of flight simulation training devices and line-oriented flight training. Additionally, it would establish requirements for the use of safety equipment for flight crewmembers and flight nurses. These changes will aide in the increase in aviation safety and increase survivability in the event of an accident. Without these changes, the Helicopter Air Ambulance industry may continue to see the unacceptable high rate of aircraft accidents. This rulemaking is a statutory mandate under section 306(e) of the FAA Modernization and Reform Act of 2012 (Pub. L. 112–95).

*Timetable:* Next Action Undetermined.

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Chris Holliday, Department of Transportation, Federal Aviation Administration, 801 Pennsylvania Avenue NW, Washington, DC 20024, *Phone:* 202 267–4552, *Email:* [chris.holliday@faa.gov](mailto:chris.holliday@faa.gov).

*RIN:* 2120–AK57

**172. Requirements to File Notice of Construction of Meteorological Evaluation Towers and Other Renewable Energy Projects (Section 610 Review)**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 49 U.S.C. 40103

*Abstract:* This rulemaking would add specific requirements for proponents who wish to construct meteorological evaluation towers at a height of 50 feet above ground level (AGL) up to 200 feet AGL to file notice of construction with the FAA. This rule also requires sponsors of wind turbines to provide certain specific data when filing notice of construction with the FAA. This rulemaking is a statutory mandate under section 2110 of the FAA Extension, Safety, and Security Act of 2016 (Public Law 114–190).

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/21	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Sheri Edgett-Baron, Air Traffic Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, *Phone:* 202 267–9354.

*RIN:* 2120–AK77

**DEPARTMENT OF TRANSPORTATION (DOT)**

*Federal Motor Carrier Safety Administration (FMCSA)*

Proposed Rule Stage

**173. +Controlled Substances and Alcohol Testing: State Driver's Licensing Agency Downgrade of Commercial Driver's License (Section 610 Review)**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 49 U.S.C. 31136 (a); 49 U.S.C. 31305 (a).

*Abstract:* FMCSA proposes to prohibit State Driver's Licensing Agencies (SDLAs) from issuing, renewing, upgrading, or transferring a commercial driver's license (CDL), or commercial learner's permit (CLP), for individuals prohibited under current regulations from driving a commercial motor vehicle (CMV) due to controlled substance (drug) and alcohol program violations. The CMV driving ban is intended to keep these drivers off the road until they comply with return-to-duty (RTD) requirements. FMCSA also seeks comment on alternate proposals

establishing additional ways that SDLAs would use information, obtained through the Drug and Alcohol Clearinghouse (Clearinghouse), to increase compliance with the CMV driving prohibition. Further, the Agency proposes to revise how reports of actual knowledge violations, based on a citation for Driving Under the Influence (DUI) in a CMV, would be maintained in the Clearinghouse. These proposed changes would improve highway safety by increasing compliance with existing drug and alcohol program requirements.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/00/20	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Juan Moya, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202 366–4844, *Email:* [juan.moya@dot.gov](mailto:juan.moya@dot.gov).

*RIN:* 2126–AC11

**DEPARTMENT OF TRANSPORTATION (DOT)**

*Federal Motor Carrier Safety Administration (FMCSA)*

Long-Term Actions

**174. +Safety Monitoring System and Compliance Initiative for Mexico-Domiciled Motor Carriers Operating in the United States**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* Pub. L. 107–87, sec. 350; 49 U.S.C. 113; 49 U.S.C. 31136; 49 U.S.C. 31144; 49 U.S.C. 31502; 49 U.S.C. 504; 49 U.S.C. 5113; 49 U.S.C. 521(b)(5)(A)

*Abstract:* This rule would implement a safety monitoring system and compliance initiative designed to evaluate the continuing safety fitness of all Mexico-domiciled carriers within 18 months after receiving a provisional Certificate of Registration or provisional authority to operate in the United States. It also would establish suspension and revocation procedures for provisional Certificates of Registration and operating authority, and incorporate criteria to be used by FMCSA in evaluating whether Mexico-domiciled carriers exercise basic safety management controls. The interim rule included requirements that were not proposed in the NPRM but which are necessary to comply with the FY–2002 DOT Appropriations Act. On January 16, 2003, the Ninth Circuit Court of



Appeals remanded this rule, along with two other NAFTA-related rules, to the agency, requiring a full environmental impact statement and an analysis required by the Clean Air Act. On June 7, 2004, the Supreme Court reversed the Ninth Circuit and remanded the case, holding that FMCSA is not required to prepare the environmental documents. FMCSA originally planned to publish a final rule by November 28, 2003.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/03/01	66 FR 22415
NPRM Comment Period End.	07/02/01	
Interim Final Rule	03/19/02	67 FR 12758
Interim Final Rule Comment Period End.	04/18/02	
Interim Final Rule Effective.	05/03/02	
Notice of Intent To Prepare an EIS.	08/26/03	68 FR 51322
EIS Public Scoping Meetings.	10/08/03	68 FR 58162
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Dolores Macias, Acting Division Chief, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, Phone: 202 366-2995, Email: [dolores.macias@dot.gov](mailto:dolores.macias@dot.gov).

RIN: 2126-AA35

**DEPARTMENT OF TRANSPORTATION (DOT)**

*Saint Lawrence Seaway Development Corporation (SLSDC)*

Completed Actions

**175. Tariff of Tolls (Rulemaking Resulting From a Section 610 Review)**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 33 U.S.C. 981 *et seq.*  
*Abstract:* The Saint Lawrence Seaway Development corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Tariff of Tolls in their respective jurisdictions. The Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the SLSDC and the SLSMC.

*Timetable:*

Action	Date	FR Cite
Final Rule .....	03/20/20	85 FR 15951
Final Rule Effective.	03/20/20	

*Regulatory Flexibility Analysis Required: No.*

*Agency Contact:* Carrie Lavigne, Department of Transportation, Saint Lawrence Seaway Development Corporation, 1200 New Jersey Avenue SE, Washington, DC 20590, Phone: 315 764-3231, Email: [carrie.mann@dot.gov](mailto:carrie.mann@dot.gov).  
RIN: 2135-AA47

**176. Seaway Regulations and Rules: Periodic Update, Various Categories (Rulemaking Resulting From a Section 610 Review)**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 33 U.S.C. 981 *et seq.*  
*Abstract:* The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Seaway Regulations and Rules in various categories.

*Timetable:*

Action	Date	FR Cite
Final Rule .....	03/20/20	85 FR 15949
Final Rule Effective.	03/31/20	

*Regulatory Flexibility Analysis Required: No.*

*Agency Contact:* Carrie Lavigne, Department of Transportation, Saint Lawrence Seaway Development Corporation, 1200 New Jersey Avenue SE, Washington, DC 20590, Phone: 315 764-3231, Email: [carrie.mann@dot.gov](mailto:carrie.mann@dot.gov).  
RIN: 2135-AA48

**DEPARTMENT OF TRANSPORTATION (DOT)**

*Pipeline and Hazardous Materials Safety Administration (PHMSA)*

Proposed Rule Stage

**177. +Pipeline Safety: Amendments to Parts 192 and 195 To Require Valve Installation and Minimum Rupture Detection Standards**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 49 U.S.C. 60101 *et seq.*

*Abstract:* PHMSA is proposing to revise the Pipeline Safety Regulations applicable to newly constructed or entirely replaced natural gas transmission and hazardous liquid pipelines to improve rupture mitigation and shorten pipeline segment isolation times in high consequence and select non-high consequence areas. The proposed rule defines certain pipeline events as “ruptures” and outlines certain performance standards related to rupture identification and pipeline segment isolation. PHMSA also proposes specific valve maintenance and inspection requirements, and 9–1–1 notification requirements to help operators achieve better rupture response and mitigation. The rule addresses congressional mandates, incorporate recommendations from the National Transportation Safety Board, and are necessary to reduce the serious consequences of large-volume, uncontrolled releases of natural gas and hazardous liquids.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/06/20	85 FR 7162
NPRM Comment Period End.	06/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Robert Jagger, Technical Writer, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SW, Washington, DC 20590, Phone: 202 366-4595, Email: [robert.jagger@dot.gov](mailto:robert.jagger@dot.gov).  
RIN: 2137-AF06

**DEPARTMENT OF TRANSPORTATION (DOT)**

*Pipeline and Hazardous Materials Safety Administration (PHMSA)*

Final Rule Stage

**178. +Hazardous Materials: Enhanced Safety Provisions for Lithium Batteries Transported by Aircraft (FAA Reauthorization Act of 2018)**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 49 U.S.C. 44701; 49 U.S.C. 5103(b); 49 U.S.C. 5120(b)  
*Abstract:* This rulemaking amends the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) to (1) prohibit the transport of lithium ion cells and batteries as cargo on passenger aircraft; (2) require all lithium ion cells and batteries to be shipped at not more than a 30 percent state of charge on cargo-only aircraft; and (3) limit the use of

alternative provisions for small lithium cell or battery to one package per consignment. The amendments will not restrict passengers or crew members from bringing personal items or electronic devices containing lithium cells or batteries aboard aircraft, or restrict the air transport of lithium ion cells or batteries when packed with or contained in equipment. To accommodate persons in areas potentially not serviced daily by cargo aircraft, PHMSA is providing a limited exception for not more than two replacement lithium cells or batteries specifically used for medical devices to be transported by passenger aircraft and at a state of charge greater than 30 percent, under certain conditions and as approved by the Associate

Administrator. This rulemaking is necessary to meet the FAA Reauthorization Act of 2018, address a safety hazard, and harmonize the HMR with emergency amendments to the 2015–2016 edition of the International Civil Aviation Organization’s Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions).

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/06/19	84 FR 8006
Interim Final Rule Effective.	03/06/19	
Interim Final Rule Comment Period End.	05/06/19	

Action	Date	FR Cite
Final Rule .....	10/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Shelby Geller, Transportation Regulations Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202 366–8553, *Email:* [shelby.geller@dot.gov](mailto:shelby.geller@dot.gov).

*RIN:* 2137–AF20

[FR Doc. 2020–16760 Filed 8–25–20; 8:45 am]

**BILLING CODE 4910–9X–P; 4910–60–P; 4910–EX–P; 4910–13–P; 4910–61–P**



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XII

Department of the Treasury

---

Semiannual Regulatory Agenda

**DEPARTMENT OF THE TREASURY****31 CFR Subtitles A and B****Semiannual Agenda****AGENCY:** Department of the Treasury.**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This notice is given pursuant to the requirements of the Regulatory Flexibility Act and Executive Order 12866 ("Regulatory Planning and Review"), which require the publication by the Department of a semiannual agenda of regulations.

**FOR FURTHER INFORMATION CONTACT:** The Agency contact identified in the item relating to that regulation.

**SUPPLEMENTARY INFORMATION:** The semiannual regulatory agenda includes regulations that the Department has

issued or expects to issue and rules currently in effect that are under departmental or bureau review.

Beginning with the fall 2007 edition, the internet has been the primary medium for disseminating the Unified Agenda. The complete Unified Agenda will be available online at [www.reginfo.gov](http://www.reginfo.gov) and [www.regulations.gov](http://www.regulations.gov), in a format that offers users an enhanced ability to obtain information from the Agenda database. Because publication in the **Federal Register** is mandated for the regulatory flexibility agenda required by the Regulatory Flexibility Act (5 U.S.C. 602), Treasury's printed agenda entries include only:

(1) Rules that are in the regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because

they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that have been identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. Additional information on these entries is available in the Unified Agenda available on the internet.

The semiannual agenda of the Department of the Treasury conforms to the Unified Agenda format developed by the Regulatory Information Service Center (RISC).

**Michael Briskin,**

*Deputy Assistant General Counsel for General Law and Regulation.*

**CUSTOMS REVENUE FUNCTION—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
179 .....	Enforcement of Copyrights and the Digital Millennium Copyright Act .....	1515-AE26

**INTERNAL REVENUE SERVICE—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
180 .....	Section 42 Low-Income Housing Credit Average Income Test Regulations .....	1545-BO92

**INTERNAL REVENUE SERVICE—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
181 .....	Guidance on the Elimination of Interbank Offered Rates .....	1545-BO91
182 .....	MEPs and the Unified Plan Rule .....	1545-BO97

**DEPARTMENT OF THE TREASURY (TREAS)***Customs Revenue Function (CUSTOMS)*

## Final Rule Stage

**179. Enforcement of Copyrights and the Digital Millennium Copyright Act**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* Not Yet Determined

*Abstract:* This rule amends the U.S. Customs and Border Protection (CBP) regulations pertaining to importations of merchandise that violate or are suspected of violating the copyright laws in accordance with title III of the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) and certain provisions of the Digital Millennium Copyright Act (DMCA).

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/16/19	84 FR 55251
NPRM Comment Period End.	12/16/19	
Final Rule .....	01/00/21	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Charles Steuart, Chief, Intellectual Property Rights Branch, Department of the Treasury, Customs Revenue Function, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, *Phone:* 202 325-0093, *Fax:* 202 325-0120, *Email:* [charles.r.steuart@cbp.dhs.gov](mailto:charles.r.steuart@cbp.dhs.gov).

*RIN:* 1515-AE26

**DEPARTMENT OF THE TREASURY (TREAS)***Internal Revenue Service (IRS)*

## Proposed Rule Stage

**180. Section 42 Low-Income Housing Credit Average Income Test Regulations**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 26 U.S.C. 7805; 26 U.S.C. 42

*Abstract:* The Consolidated Appropriations Act of 2018 added a new applicable minimum set-aside test under section 42(g) of the Internal Revenue Code known as the average income test. This proposed regulation will implement requirements related to the average income test.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Dillon J. Taylor,  
Attorney, Department of the Treasury,  
Internal Revenue Service, 1111  
Constitution Avenue NW, Room 5107,  
Washington, DC 20224, *Phone:* 202 317–  
4137, *Fax:* 855 591–7867, *Email:*  
[dillon.j.taylor@irsounsel.treas.gov](mailto:dillon.j.taylor@irsounsel.treas.gov).  
*RIN:* 1545–BO92

**DEPARTMENT OF THE TREASURY  
(TREAS)***Internal Revenue Service (IRS)*

Final Rule Stage

**181. Guidance on the Elimination of  
Interbank Offered Rates**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 26 U.S.C. 1001b and  
7805

*Abstract:* The final proposed  
regulations will provide guidance on the  
tax consequences of the phased  
elimination of interbank offered rates  
(IBORs) that is underway in the United  
States and many foreign countries.  
Taxpayers have requested guidance that

addresses whether a modification to a  
debt instrument or other financial  
contract to accommodate the  
elimination of the relevant IBOR will be  
treated as a realization event for federal  
income tax purposes.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/09/19	84 FR 54068
NPRM Comment Period End.	11/25/19	
Final Action .....	06/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Caitlin Holzem,  
Attorney, Department of the Treasury,  
Internal Revenue Service, 1111  
Constitution Avenue NW, Room 3547,  
Washington, DC 20224, *Phone:* 202 317–  
7036, *Fax:* 855 574–9023, *Email:*  
[caitlin.i.holzem@irsounsel.treas.gov](mailto:caitlin.i.holzem@irsounsel.treas.gov).  
*RIN:* 1545–BO91

**182. MEPS and the Unified Plan Rule**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 26 U.S.C. 7805; 26  
U.S.C. 413

*Abstract:* These are final regulations  
relating to the tax qualification of plans  
maintained by more than one employer  
pursuant to section 413(c) of the  
Internal Revenue Code, often referred to

as multiple employer plans or MEPs.  
The regulations provide limited relief to  
a defined contribution MEP in the event  
of a failure by one employer  
maintaining the plan to satisfy an  
applicable qualification requirement or  
to provide information needed to ensure  
compliance with a qualification  
requirement. The regulations affect  
participants in MEPs, MEP sponsors and  
administrators, and employers  
maintaining MEPs.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/03/19	84 FR 31777
NPRM Comment Period End.	10/01/19	
Final Action .....	12/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Jamie Dvoretzky,  
Attorney, Department of the Treasury,  
Internal Revenue Service, 1111  
Constitution Avenue NW, Washington,  
DC 20224, *Phone:* 202 317–4102, *Fax:*  
855 604–6087, *Email:*  
[jamie.l.dvoretzky@irsounsel.treas.gov](mailto:jamie.l.dvoretzky@irsounsel.treas.gov).  
*RIN:* 1545–BO97

[FR Doc. 2020–16761 Filed 8–25–20; 8:45 am]

**BILLING CODE 9111–14–P; 4810–01–P; 4810–25–P**





# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XIII

Architectural and Transportation Barriers  
Compliance Board

---

Semiannual Regulatory Agenda

**ARCHITECTURAL AND  
TRANSPORTATION BARRIERS  
COMPLIANCE BOARD****36 CFR Ch. XI****Unified Agenda of Federal Regulatory  
and Deregulatory Actions**

**AGENCY:** Architectural and  
Transportation Barriers Compliance  
Board.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The Architectural and  
Transportation Barriers Compliance  
Board submits the following agenda of  
proposed regulatory activities which  
may be conducted by the agency during  
the next 12 months. This regulatory  
agenda may be revised by the agency  
during the coming months as a result of  
action taken by the Board.

**ADDRESSES:** Architectural and  
Transportation Barriers Compliance

Board, 1331 F Street NW, Suite 1000,  
Washington, DC 20004–1111.

**FOR FURTHER INFORMATION CONTACT:** For  
information concerning Board  
regulations and proposed actions,  
contact Gretchen Jacobs, General  
Counsel, (202) 272–0040 (voice) or (202)  
272–0062 (TTY).

**Gretchen Jacobs,**  
*Interim Executive Director.*

**ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD—PRERULE STAGE**

Sequence No.	Title	Regulation Identifier No.
183 .....	Americans With Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles; Rail Vehicles	3014–AA42

**ARCHITECTURAL AND  
TRANSPORTATION BARRIERS  
COMPLIANCE BOARD (ATBCB)****Prerule Stage****183. Americans With Disabilities Act  
(ADA) Accessibility Guidelines for  
Transportation Vehicles; Rail Vehicles**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 42 U.S.C. 12204

**Abstract:** This rulemaking would  
update the Access Board's existing  
accessibility guidelines for  
transportation vehicles that operate on  
fixed guideway systems (e.g., rapid rail,  
light rail, commuter rail, and intercity  
rail) and are covered by the Americans  
with Disabilities Act. The existing "rail  
vehicles" guidelines, which are located  
at 36 CFR part 1192, subparts C to F and  
H, were initially promulgated in 1991,  
and are in need of an update to, among  
other things, keep pace with newer  
accessibility-related technologies,  
harmonize with recently-developed

national and international consensus  
standards, and incorporate  
recommendations from the Board's Rail  
Vehicles Access Advisory Committee's  
2015 Report. Revisions or updates to the  
rail vehicles guidelines would be  
intended to ensure that ADA-covered  
rail vehicles are readily accessible to  
and usable by individuals with  
disabilities. Compliance with any  
revised rail vehicles guidelines would  
not be required until these guidelines  
are adopted by the U.S. Department of  
Transportation in a separate rulemaking.

*Timetable:*

Action	Date	FR Cite
Notice of Intent to Establish Advi- sory Committee.	02/14/13	78 FR 10581

Action	Date	FR Cite
Notice of Estab- lishment of Ad- visory Com- mittee; Appoint- ment of Mem- bers.	05/23/13	78 FR 30828
ANPRM .....	02/14/20	85 FR 8516
ANPRM Comment Period End.	05/14/20	

*Regulatory Flexibility Analysis  
Required:* Undetermined.

*Agency Contact:* Gretchen Jacobs,  
General Counsel, Architectural and  
Transportation Barriers Compliance  
Board, 1331 F Street NW, Suite 1000,  
Washington, DC 20004–1111, *Phone:*  
202 272–0040, *TDD Phone:* 202 272–  
0062, *Fax:* 202 272–0081, *Email:*  
*jacobs@access-board.gov.*

*RIN:* 3014–AA42

[FR Doc. 2020–16762 Filed 8–25–20; 8:45 am]

**BILLING CODE 8150–01–P**





# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

## Part XIV

### Committee for Purchase From People Who Are Blind or Severely Disabled

---

Semiannual Regulatory Agenda

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

41 CFR Ch. 51

Semiannual Regulatory Agenda

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the regulatory agenda of the Committee for Purchase From People Who Are Blind or Severely Disabled. This agenda is issued in accordance with Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under

development or review or that the Committee expects to have under development or review during the next 12 months. The purpose for publishing this agenda is to advise the public of the Committee's current and future regulatory actions.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Shelly Hammond, Director, Contracting and Policy, Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, VA 22202; (703) 603-2127.

SUPPLEMENTARY INFORMATION: Under Executive Order 12866 (58 FR 51735, October 4, 1993), each agency is required to prepare an agenda of all regulations under development or

review. The Regulatory Flexibility Act (5 U.S.C. 601 to 612) has a similar agenda requirement (5 U.S.C. 602). Under the law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next 12 months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings.

Dated: March 6, 2020.  
Shelly Hammond,  
Director of Contracting & Policy.

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
184 .....	AbilityOne Program, Department of Defense Section 898, Contracting Oversight, Accountability and Integrity Panel (Rulemaking Resulting From a Section 610 Review).	3037-AA14

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED (CPBSD)

Prerule Stage

184. • AbilityOne Program, Department of Defense Section 898, Contracting Oversight, Accountability and Integrity Panel (Rulemaking Resulting From a Section 610 Review)

E.O. 13771 Designation: Other.  
Legal Authority: 41 U.S.C. 85  
Abstract: The Committee for Purchase from People Who Are Blind or Severely Disabled (Committee) is proposing to amend its regulation to incorporate

specific recommendations from the Department of Defense (DoD) section 898 panel review mandated by the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114-328). The mission of the Panel is to assess the overall effectiveness and internal controls of the AbilityOne Program related to DoD contracts and provide recommendations for changes in business practices.

Timetable:

Action	Date	FR Cite
ANPRM .....	06/00/20	

Regulatory Flexibility Analysis Required: No.  
Agency Contact: Shelly Hammond, Director, Policy and Programs, Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, VA 22202, Phone: 703 603-2127, Email: shammond@abilityone.gov.  
RIN: 3037-AA14  
[FR Doc. 2020-17080 Filed 8-25-20; 8:45 am]  
BILLING CODE 6350-01-P



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XV

Environmental Protection Agency

---

Semiannual Regulatory Agenda

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Ch. I**

[FRL 10005–79–OP; EPA–HQ–OAR–2019–0168; EPA–HQ–OAR–2020–0099; EPA–HQ–OAR–2020–0106]

**Spring 2020 Unified Agenda of Regulatory and Deregulatory Actions**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The Environmental Protection Agency (EPA) publishes the Semiannual Agenda of Regulatory and Deregulatory Actions online at <https://www.reginfo.gov> and at <https://www.regulations.gov> to update the public. This document contains information about:

- Regulations in the Semiannual Agenda that are under development, completed, or canceled since the last agenda; and
- Reviews of regulations with small business impacts under Section 610 of the Regulatory Flexibility Act.

**FOR FURTHER INFORMATION CONTACT:** If you have questions or comments about a particular action, please get in touch with the agency contact listed in each agenda entry. If you have general questions about the Semiannual Agenda, please contact: Caryn Muellerleile ([muellerleile.caryn@epa.gov](mailto:muellerleile.caryn@epa.gov); 202–564–2855).

**Table of Contents**

- I. Introduction
  - A. EPA's Regulatory Information
  - B. What key statutes and Executive Orders guide EPA's rule and policymaking process?
  - C. How can you be involved in EPA's rule and policymaking process?
- II. Semiannual Agenda of Regulatory and Deregulatory Actions
  - A. What actions are included in the e-Agenda and the Regulatory Flexibility Agenda?
  - B. How is the e-Agenda organized?
  - C. What information is in the Regulatory Flexibility Agenda and the e-Agenda?
  - D. What tools are available for mining Regulatory Agenda data and for finding more about EPA rules and policies?
- III. Review of Regulations Under 610 of the Regulatory Flexibility Act
  - A. Reviews of Rules With Significant Impacts on a Substantial Number of Small Entities
  - B. What other special attention does EPA give to the impacts of rules on small businesses, small governments, and small nonprofit organizations?
- IV. Thank You for Collaborating With Us

**SUPPLEMENTARY INFORMATION:****I. Introduction**

EPA is committed to a regulatory strategy that effectively achieves the Agency's mission of protecting the environment and the health, welfare, and safety of Americans while also supporting economic growth, job creation, competitiveness, and innovation. EPA publishes the Semiannual Agenda of Regulatory and Deregulatory Actions to update the public about regulatory activity undertaken in support of this mission. In the Semiannual Agenda, EPA provides notice of our plans to review, propose, and issue regulations.

Additionally, EPA's Semiannual Agenda includes information about rules that may have a significant economic impact on a substantial number of small entities, and review of those regulations under the Regulatory Flexibility Act, as amended.

In this document, EPA explains in greater detail the types of actions and information available in the Semiannual Agenda and actions that are currently undergoing review specifically for impacts on small entities.

**A. EPA's Regulatory Information**

"E-Agenda," "online regulatory agenda," and "semiannual regulatory agenda" all refer to the same comprehensive collection of information that, until 2007, was published in the **Federal Register**. Currently, this information is only available through an online database, at both [www.reginfo.gov/](https://www.reginfo.gov/) and [www.regulations.gov](https://www.regulations.gov).

"Regulatory Flexibility Agenda" refers to a document that contains information about regulations that may have a significant impact on a substantial number of small entities. We continue to publish this document in the **Federal Register** pursuant to the Regulatory Flexibility Act of 1980. This document is available at <https://www.govinfo.gov/app/collection/fr>.

"Unified Regulatory Agenda" refers to the collection of all agencies' agendas with an introduction prepared by the Regulatory Information Service Center facilitated by the General Service Administration.

"Regulatory Agenda Preamble" refers to the document you are reading now. It appears as part of the Regulatory Flexibility Agenda and introduces both EPA's Regulatory Flexibility Agenda and the e-Agenda.

"610 Review" as required by the Regulatory Flexibility Act means a periodic review within ten years of promulgating a final rule that has or may have a significant economic impact

on a substantial number of small entities. EPA maintains a list of these actions at <https://www.epa.gov/reg-flex/section-610-reviews>. EPA is initiating two 610 reviews in spring 2020 and has a third review ongoing.

**B. What key statutes and Executive Orders guide EPA's rule and policymaking process?**

A number of environmental laws authorize EPA's actions, including but not limited to:

- Clean Air Act (CAA),
- Clean Water Act (CWA),
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, or Superfund),
- Emergency Planning and Community Right-to-Know Act (EPCRA),
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA),
- Resource Conservation and Recovery Act (RCRA),
- Safe Drinking Water Act (SDWA), and
- Toxic Substances Control Act (TSCA).

Not only must EPA comply with environmental laws, but also administrative legal requirements that apply to the issuance of regulations, such as: The Administrative Procedure Act (APA), the Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), the Unfunded Mandates Reform Act (UMRA), the Paperwork Reduction Act (PRA), the National Technology Transfer and Advancement Act (NTTAA), and the Congressional Review Act (CRA).

EPA also meets a number of requirements contained in numerous Executive Orders: 13771, "Reducing Regulation and Controlling Regulatory Costs" (82 FR 9339, Feb. 3, 2017); 12866, "Regulatory Planning and Review" (58 FR 51735, Oct. 4, 1993), as supplemented by Executive Order 13563, "Improving Regulation and Regulatory Review" (76 FR 3821, Jan. 21, 2011); 12898, "Environmental Justice" (59 FR 7629, Feb. 16, 1994); 13045, "Children's Health Protection" (62 FR 19885, Apr. 23, 1997); 13132, "Federalism" (64 FR 43255, Aug. 10, 1999); 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, Nov. 9, 2000); 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

### *C. How can you be involved in EPA's rule and policymaking process?*

You can make your voice heard by getting in touch with the contact person provided in each agenda entry. EPA encourages you to participate as early in the process as possible. You may also participate by commenting on proposed rules published in the **Federal Register** (FR).

Instructions on how to submit your comments through <https://www.regulations.gov> are provided in each Notice of Proposed Rulemaking (NPRM). To be most effective, comments should contain information and data that support your position and you also should explain why EPA should incorporate your suggestion in the rule or other type of action. You can be particularly helpful and persuasive if you provide examples to illustrate your concerns and offer specific alternative(s) to that proposed by EPA.

EPA believes its actions will be more cost effective and protective if the development process includes stakeholders working with us to help identify the most practical and effective solutions to environmental problems. EPA encourages you to become involved in its rule and policymaking process. For more information about EPA's efforts to increase transparency, participation and collaboration in EPA activities, please visit <https://www.epa.gov/open>.

## **II. Semiannual Agenda of Regulatory and Deregulatory Actions**

### *A. What actions are included in the e-Agenda and the Regulatory Flexibility Agenda?*

EPA includes regulations in the e-Agenda. However, there is no legal significance to the omission of an item from the agenda, and EPA generally does not include the following categories of actions:

- Administrative actions such as delegations of authority, changes of address, or phone numbers;
- Under the CAA: Revisions to state implementation plans; equivalent methods for ambient air quality monitoring; deletions from the new source performance standards source categories list; delegations of authority to states; area designations for air quality planning purposes;
- Under FIFRA: Registration-related decisions, actions affecting the status of currently registered pesticides, and data call-ins;
- Under the Federal Food, Drug, and Cosmetic Act: Actions regarding pesticide tolerances and food additive regulations;

- Under RCRA: Authorization of State solid waste management plans; hazardous waste delisting petitions;

- Under the CWA: State Water Quality Standards; deletions from the section 307(a) list of toxic pollutants; suspensions of toxic testing requirements under the National Pollutant Discharge Elimination System (NPDES); delegations of NPDES authority to States;

- Under SDWA: Actions on State underground injection control programs.

Meanwhile, the Regulatory Flexibility Agenda includes:

- Actions likely to have a significant economic impact on a substantial number of small entities.
- Rules the Agency has identified for periodic review under section 610 of the RFA.

EPA is initiating two new 610 reviews in this Agenda and has a third review ongoing.

### *B. How is the e-Agenda organized?*

Online, you can choose how to sort the agenda entries by specifying the characteristics of the entries of interest in the desired individual data fields for both the [www.reginfo.gov](http://www.reginfo.gov) and [www.regulations.gov](http://www.regulations.gov) versions of the e-Agenda. You can sort based on the following characteristics: EPA subagency (such as Office of Water); stage of rulemaking as described in the following paragraphs; alphabetically by title; or the Regulation Identifier Number (RIN), which is assigned sequentially when an action is added to the agenda.

Each entry in the Agenda is associated with one of five rulemaking stages. The rulemaking stages are:

1. Prerule Stage—EPA's prerule actions generally are intended to determine whether the agency should initiate rulemaking. Prerulemakings may include anything that influences or leads to rulemaking; this would include Advance Notices of Proposed Rulemaking (ANPRMs), studies or analyses of the possible need for regulatory action.

2. Proposed Rule Stage—Proposed rulemaking actions include EPA's Notice of Proposed Rulemakings (NPRMs); these proposals are scheduled to publish in the **Federal Register** within the next year.

3. Final Rule Stage—Final rulemaking actions are those actions that EPA is scheduled to finalize and publish in the **Federal Register** within the next year.

4. Long-Term Actions—This section includes rulemakings for which the next scheduled regulatory action (such as publication of a NPRM or final rule) is

twelve or more months into the future. We urge you to explore becoming involved even if an action is listed in the Long-Term category.

5. Completed Actions—EPA's completed actions are those that have been promulgated and published in the **Federal Register** since publication of the fall 2019 Agenda. The term completed actions also includes actions that EPA is no longer considering and has elected to "withdraw" and also the results of any RFA section 610 reviews.

### *C. What information is in the Regulatory Flexibility Agenda and the e-Agenda?*

The Regulatory Flexibility Agenda entries include only the nine categories of information that are required by the Regulatory Flexibility Act of 1980 and by **Federal Register** Agenda printing requirements: Sequence Number, RIN, Title, Description, Statutory Authority, Section 610 Review, if applicable, Regulatory Flexibility Analysis Required, Schedule and Contact Person. Note that the electronic version of the Agenda (e-Agenda) replicates each of these actions with more extensive information, described below.

e-Agenda entries include:

**Title:** a brief description of the subject of the regulation. The notation "Section 610 Review" follows the title if we are reviewing the rule as part of our periodic review of existing rules under section 610 of the RFA (5 U.S.C. 610).

**Priority:** Each entry is placed into one of the five following categories:

- a. Economically Significant: Under Executive Order 12866, a rulemaking that may have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

- b. Other Significant: A rulemaking that is not economically significant but is considered significant for other reasons. This category includes rules that may:

1. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

2. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients; or

3. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles in Executive Order 12866.

- c. Substantive, Nonsignificant: A rulemaking that has substantive impacts but is not Significant, Routine and

Frequent, or Informational/ Administrative/Other.

d. Routine and Frequent: A rulemaking that is a specific case of a recurring application of a regulatory program in the Code of Federal Regulations. If an action that would normally be classified Routine and Frequent is reviewed by the Office of Management and Budget (OMB) under Executive Order 12866, then we would classify the action as either “Economically Significant” or “Other Significant.”

e. Informational/Administrative/ Other: An action that is primarily informational or pertains to an action outside the scope of Executive Order 12866.

*Executive Order 13771 Designation:* Each entry is placed into one of the following categories:

a. Deregulatory: when finalized, an action is expected to have total costs less than zero;

b. Regulatory: the action is either (i) a significant regulatory action as defined in section 3(f) of Executive Order 12866, or (ii) a significant guidance document (e.g., significant interpretive guidance) reviewed by OMB’s Office of Information and Regulatory Affairs (OIRA) under the procedures of Executive Order 12866 that, when finalized, is expected to impose total costs greater than zero;

c. Fully or Partially Exempt: The action has been granted, or is expected to be granted, a full or partial waiver under one or more of the following circumstances:

(i) It is expressly exempt by Executive Order 13771 (issued with respect to a “military, national security, or foreign affairs function of the United States”; or related to “agency organization, management, or personnel”), or

(ii) it addresses an emergency such as critical health, safety, financial, or non-exempt national security matters (offset requirements may be exempted or delayed), or

(iii) it is required to meet a statutory or judicial deadline (offset requirements may be exempted or delayed), or

(iv) expected to generate de minimis costs;

d. Not subject to, not significant: Is a NPRM or final rule AND is neither an Executive Order 13771 regulatory action nor an Executive Order 13771 deregulatory action;

e. Other: At the time of designation, either the available information is too preliminary to determine Executive Order 13771 status or other reasonable circumstances preclude a preliminary Executive Order 13771 designation.

f. Independent agency: Is an action an independent agency anticipates issuing and thus is not subject to Executive Order 13771.

*Major:* A rule is “major” under 5 U.S.C. 801 (Pub. L. 104–121) if it has resulted or is likely to result in an annual effect on the economy of \$100 million or more or meets other criteria specified in the Congressional Review Act.

*Unfunded Mandates:* Whether the rule is covered by section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). The Act requires that, before issuing an NPRM likely to result in a mandate that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector of more than \$100 million in 1 year, the agency prepare a written statement on federal mandates addressing costs, benefits, and intergovernmental consultation.

*Legal Authority:* The sections of the United States Code (U.S.C.), Public Law (Pub. L.), Executive Order (E.O.), or common name of the law that authorizes the regulatory action.

*CFR Citation:* The sections of the Code of Federal Regulations that would be affected by the action.

*Legal Deadline:* An indication of whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to a Notice of Proposed Rulemaking, a Final Action, or some other action.

*Abstract:* A brief description of the problem the action will address.

*Timetable:* The dates and citations (if available) for all past steps and a projected date for at least the next step for the regulatory action. A date displayed in the form 05/00/21 means the agency is predicting the month and year the action will take place but not the day it will occur. For some entries, the timetable indicates that the date of the next action is “to be determined.”

*Regulatory Flexibility Analysis Required:* Indicates whether EPA has prepared or anticipates preparing a regulatory flexibility analysis under section 603 or 604 of the RFA. Generally, such an analysis is required for proposed or final rules subject to the RFA that EPA believes may have a significant economic impact on a substantial number of small entities.

*Small Entities Affected:* Indicates whether the rule is anticipated to have any effect on small businesses, small governments or small nonprofit organizations.

*Government Levels Affected:* Indicates whether the rule may have any effect on levels of government and, if so, whether

the affected governments are State, local, tribal, or Federal.

*Federalism Implications:* Indicates whether the action is expected to have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

*Energy Impacts:* Indicates whether the action is a significant energy action under Executive Order 13211.

*Sectors Affected:* Indicates the main economic sectors regulated by the action. The regulated parties are identified by their North American Industry Classification System (NAICS) codes. These codes were created by the Census Bureau for collecting, analyzing, and publishing statistical data on the U.S. economy. There are more than 1,000 NAICS codes for sectors in agriculture, mining, manufacturing, services, and public administration.

*International Trade Impacts:* Indicates whether the action is likely to have international trade or investment effects, or otherwise be of international interest.

*Agency Contact:* The name, address, phone number, and email address, if available, of a person who is knowledgeable about the regulation.

*Additional Information:* Other information about the action including docket information.

*URLs:* For some actions, the internet addresses are included for reading copies of rulemaking documents, submitting comments on proposals, and getting more information about the rulemaking and the program of which it is a part.

*RIN:* The Regulation Identifier Number is used by OMB to identify and track rulemakings. The first four digits of the RIN correspond with the EPA office with lead responsibility for developing the action.

*D. What tools are available for mining Regulatory Agenda data and for finding more about EPA rules and policies?*

#### 1. Federal Regulatory Dashboard

The <https://www.reginfo.gov/> searchable database maintained by the Regulatory Information Service Center and OIRA, allows users to view the Regulatory Agenda database (<https://www.reginfo.gov/public/do/eAgendaMain>), which includes search, display, and data transmission options.

#### 2. Subject Matter EPA Websites

Some actions listed in the Agenda include a URL for an EPA-maintained website that provides additional information about the action.

### 3. Deregulatory Actions and Regulatory Reform

EPA maintains a list of its deregulatory actions under development, as well as those that are completed, at <https://www.epa.gov/laws-regulations/epa-deregulatory-actions>. A completed list of regulatory actions, as defined under Executive Order 13771, is available at <https://www.epa.gov/laws-regulations/epa-regulatory-actions>. Additional information about EPA's regulatory reform activity is available to the public at <https://www.epa.gov/laws-regulations/regulatory-reform>.

### 4. Public Dockets

When EPA publishes either an Advance Notice of Proposed

Rulemaking (ANPRM) or a Notice of Proposed Rulemaking (NPRM) in the **Federal Register**, the Agency typically establishes a docket to accumulate materials developed throughout the development process for that rulemaking. The docket serves as the repository for the collection of documents or information related to that particular Agency action or activity. EPA most commonly uses dockets for rulemaking actions, but dockets may also be used for RFA section 610 reviews of rules with significant economic impacts on a substantial number of small entities and for various non-rulemaking activities, such as **Federal Register** documents seeking public comments on draft guidance, policy statements, information

collection requests under the PRA, and other non-rule activities. Docket information should be in that action's agenda entry. All of EPA's public dockets can be located at <https://www.regulations.gov>.

### III. Review of Regulations Under 610 of the Regulatory Flexibility Act

#### A. Reviews of Rules With Significant Impacts on a Substantial Number of Small Entities

Section 610 of the RFA requires that an agency review, within 10 years of promulgation, each rule that has or will have a significant economic impact on a substantial number of small entities. At this time, EPA is initiating two 610 reviews and has a third review ongoing.

Review title	RIN	Docket ID No.	Status
Section 610 Review of Renewable Fuels Standard Program .....	2060-AU44	EPA-HQ-OAR-2019-0168	Ongoing.
Section 610 Review of National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers.	2060-AU76	EPA-HQ-OAR-2020-0099	Initiated.
Section 610 Review of National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial and Institutional Boilers and Process Heaters.	2060-AU77	EPA-HQ-OAR-2020-0106	Initiated.

EPA has established public dockets for these 610 reviews. Comments on the newly-initiated 610 reviews can be submitted at <https://www.regulations.gov> with the appropriate docket identification number listed above. To view comments on EPA's ongoing 610 review, please see docket EPA-HQ-OAR-2019-0168.

#### B. What other special attention does EPA give to the impacts of rules on small businesses, small governments, and small nonprofit organizations?

For each of EPA's rulemakings, consideration is given to whether there will be any adverse impact on any small entity. EPA attempts to fit the regulatory

requirements, to the extent feasible, to the scale of the businesses, organizations, and governmental jurisdictions subject to the regulation.

Under the RFA as amended by SBREFA, the Agency must prepare a formal analysis of the potential negative impacts on small entities, convene a Small Business Advocacy Review Panel (proposed rule stage), and prepare a Small Entity Compliance Guide (final rule stage) unless the Agency certifies a rule will not have a significant economic impact on a substantial number of small entities. For more detailed information about the Agency's policy and practice with respect to implementing the RFA/SBREFA, please

visit EPA's RFA/SBREFA website at <https://www.epa.gov/reg-flex>.

### IV. Thank You for Collaborating With Us

Finally, we would like to thank those of you who choose to join with us in making progress on the complex issues involved in protecting human health and the environment. Collaborative efforts such as EPA's open rulemaking process are a valuable tool for addressing the problems we face, and the regulatory agenda is an important part of that process.

Dated: May 29, 2020.

**Brittany Bolen,**

Associate Administrator, Office of Policy.

## 10—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
185 .....	Section 610 Review of Renewable Fuels Standard Program ( <b>Section 610 Review</b> ) (Section 610 Review)	2060-AU44
186 .....	Section 610 Review of National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers ( <b>Section 610 Review</b> ).	2060-AU76
187 .....	Section 610 Review of National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial and Institutional Boilers and Process Heaters ( <b>Section 610 Review</b> ).	2060-AU77

## 10—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
188 .....	National Emission Standards for Hazardous Air Pollutants: Ethylene Oxide Commercial Sterilization and Fumigation Operations.	2060-AU37

## 35—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
189 .....	Trichloroethylene (TCE); Rulemaking Under TSCA Section 6(a); Vapor Degreasing .....	2070-AK11
190 .....	N-Methylpyrrolidone; Regulation of Certain Uses Under TSCA Section 6(a) .....	2070-AK46

## 72—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
191 .....	National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions .....	2040-AF15

**ENVIRONMENTAL PROTECTION AGENCY (EPA)**

10

## Prerule Stage

**185. Section 610 Review of Renewable Fuels Standard Program (Section 610 Review) (Section 610 Review)**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 5 U.S.C. 610

*Abstract:* The rulemaking “Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program” was finalized by EPA in March 2010 (75 FR 14669, March 26, 2010). The final regulations made a number of changes to the existing Renewable Fuel Standard program while retaining many elements of the compliance and trading system already in place. The final rule also implemented the revised statutory definitions and criteria, most notably the greenhouse gas emission thresholds for renewable fuels and new limits on renewable biomass feedstocks. This entry in the regulatory agenda describes EPA’s review of this action pursuant to section 610 of the Regulatory Flexibility Act (5 U.S.C. 610). As part of this review, EPA is considering comments on the following factors: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State, or local government rules; and (5) the degree to which the technology, economic conditions or other factors have changed in the area affected by the rule.

*Timetable:*

Action	Date	FR Cite
Final Rule .....	03/26/10	75 FR 14669
Begin Review .....	06/24/19	84 FR 29689
Comment Period Extended.	08/27/19	84 FR 44804
End Review .....	06/00/20	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Jessica Mroz, Environmental Protection Agency, Office of Air and Radiation, 1200 Pennsylvania Avenue NW, Washington, DC 20460, *Phone:* 202 564–1094, *Email:* mroz.jessica@epa.gov.

Julia Burch, Environmental Protection Agency, Office of Air and Radiation, 1200 Pennsylvania Avenue NW, Washington, DC 20460, *Phone:* 202 564–0961, *Email:* burch.julia@epa.gov.

*RIN:* 2060–AU44

**186. • Section 610 Review of National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers (Section 610 Review)**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 42 U.S.C. 7412 Clean Air Act; 5 U.S.C. 610

*Abstract:* On March 21, 2011, EPA promulgated National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers (76 FR 15554). The rule (40 CFR part 63, subpart JJJJJJ) includes standards to control hazardous air pollutant emissions from new and existing industrial, commercial and institutional boilers fired with coal, oil, biomass or other solid and liquid non-waste materials located at area source facilities. Rule amendments that did not impose any additional regulatory requirements beyond those imposed by the March 2011 final rule and, in certain instances, would result in a decrease in burden, were promulgated on February 1, 2013 (78 FR 7488) and September 14, 2016 (81 FR 63112). This new entry in the regulatory agenda announces that EPA will review this action pursuant to section 610 of the Regulatory Flexibility Act, Periodic Review of Rules (5 U.S.C. 610) to determine if the provisions that could affect small entities should be continued without change or should be rescinded or amended to minimize

adverse economic impacts on small entities. As part of this review, EPA is soliciting and will consider comments on the following factors as specified in Section 610: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates or conflicts with other federal, state or local government rules; and (5) the degree to which the technology, economic conditions or other factors have changed in the area affected by the rule. Comments must be received within 60 days of this notice. In submitting comments, please reference Docket ID EPA–HQ–OAR–2020–0099 and follow the instructions provided in the preamble to this issue of the Regulatory Agenda. This docket can be accessed at [www.regulations.gov](http://www.regulations.gov).

*Timetable:*

Action	Date	FR Cite
Final Rule .....	03/21/11	76 FR 15553
Begin Review .....	06/00/20	
End Review .....	11/00/20	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Mary Johnson, Environmental Protection Agency, Office of Air and Radiation, 109 T.W. Alexander Drive, Mail Code D243–01, Research Triangle Park, NC 27711, *Phone:* 919 541–5025, *Email:* johnson.mary@epa.gov.

Nick Hutson, Environmental Protection Agency, Office of Air and Radiation, 109 T.W. Alexander Drive, Mail Code D243–01, Research Triangle Park, NC 27711, *Phone:* 919 541–2968, *Fax:* 919 541–4991, *Email:* hutson.nick@epa.gov.

*RIN:* 2060–AU76



# 187. • Section 610 Review of National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial and Institutional Boilers and Process Heaters (Section 610 Review)

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 42 U.S.C. 7412 Clean Air Act; 5 U.S.C. 610

*Abstract:* On March 21, 2011, the EPA promulgated National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters (76 FR 15608). The rule (40 CFR part 63, subpart DDDDD) includes standards to control hazardous air pollutant emissions from new and existing industrial, commercial, and institutional boilers and process heaters fired with coal, oil, biomass, natural gas or other solid, liquid or gaseous non-waste materials located at major source facilities. Rule amendments that did impose additional regulatory requirements beyond those imposed by the March 2011 final rule were estimated to result in an increase in burden were promulgated on January 31, 2013 (78 FR 7138). This new entry in the regulatory agenda announces that EPA will review this action pursuant to section 610 of the Regulatory Flexibility Act, "Periodic Review of Rules" (5 U.S.C. 610) to determine if the provisions that could affect small entities should be continued without change or should be rescinded or amended to minimize adverse economic impacts on small entities. As part of this review, EPA is soliciting and will consider comments on the following factors as specified in section 610: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates or conflicts with other federal, state or local government rules; and (5) the degree to which the technology, economic conditions or other factors have changed in the area affected by the rule. Comments must be received within 60 days of this notice. In submitting comments, please reference Docket ID No. EPA-HQ-OAR-2020-0106 and follow the instructions provided in the preamble to this issue of the Regulatory Agenda. This docket can be accessed at [www.regulations.gov](http://www.regulations.gov).

## Timetable:

Action	Date	FR Cite
Final Rule .....	03/21/11	76 FR 15607
Begin Review .....	06/00/20	

Action	Date	FR Cite
End Review .....	11/00/20	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Jim Eddinger, Environmental Protection Agency, Office of Air and Radiation, 109 T.W. Alexander Drive, Mail Code D243-01, Research Triangle Park, NC 27711, *Phone:* 919 541-5426, *Email:* [eddingejim@epa.gov](mailto:eddingejim@epa.gov).

Nick Hutson, Environmental Protection Agency, Office of Air and Radiation, 109 T.W. Alexander Drive, Mail Code D243-01, Research Triangle Park, NC 27711, *Phone:* 919 541-2968, *Fax:* 919 541-4991, *Email:* [hutson.nick@epa.gov](mailto:hutson.nick@epa.gov).

*RIN:* 2060-AU77

## ENVIRONMENTAL PROTECTION AGENCY (EPA)

10

Proposed Rule Stage

### 188. National Emission Standards for Hazardous Air Pollutants: Ethylene Oxide Commercial Sterilization and Fumigation Operations

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 42 U.S.C. 7412 Clean Air Act

*Abstract:* The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Ethylene Oxide Commercial Sterilization and Fumigation Operations were finalized in December 1994 (59 FR 62585). The standards require existing and new major sources to control emissions to the level achievable by the maximum achievable control technology (MACT) and require existing and new area sources to control emissions using generally available control technology (GACT). EPA completed a residual risk and technology review for the NESHAP in 2006 and, at that time, concluded that no revisions to the standards were necessary. In this action, EPA will conduct the second technology review for the NESHAP and also assess potential updates to the rule. To aid in this effort, EPA issued an advance notice of proposed rulemaking (ANPRM) that solicited comment from stakeholders and signaled the beginning of the Small Business Advocacy Review (SBAR) panel process which is needed when there is the potential for significant economic impacts to small businesses from any regulatory actions being considered.

## Timetable:

Action	Date	FR Cite
ANPRM .....	12/12/19	84 FR 67889
ANPRM Comment Period End.	02/10/20	
NPRM .....	09/00/20	
Final Rule .....	12/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jonathan Witt, Environmental Protection Agency, Office of Air and Radiation, 109 T.W. Alexander Drive, Mail Code E143-05, Research Triangle Park, NC 27709, *Phone:* 919 541-5645, *Email:* [witt.jon@epa.gov](mailto:witt.jon@epa.gov).

Steve Fruh, Environmental Protection Agency, Office of Air and Radiation, E143-01, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711, *Phone:* 919 541-2837, *Email:* [fruh.steve@epa.gov](mailto:fruh.steve@epa.gov).

*RIN:* 2060-AU37

## ENVIRONMENTAL PROTECTION AGENCY (EPA)

35

Long-Term Actions

### 189. Trichloroethylene (TCE); Rulemaking Under TSCA Section 6(a); Vapor Degreasing

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 15 U.S.C. 2605 Toxic Substances Control Act

*Abstract:* Section 6(a) of the Toxic Substances Control Act (TSCA) provides authority for EPA to ban or restrict the manufacture (including import), processing, distribution in commerce, and use of chemical substances, as well as any manner or method of disposal. Section 26(l)(4) of TSCA authorizes EPA to issue rules under TSCA section 6 for chemicals listed in the 2014 update to the TSCA Work Plan for Chemical Assessments for which EPA published completed risk assessments prior to June 22, 2016, consistent with the scope of the completed risk assessment. In the June 2014 TSCA Work Plan Chemical Risk Assessment for TCE, EPA characterized risks from the use of TCE in commercial degreasing and in some consumer uses. EPA has preliminarily determined that these risks are unreasonable risks. On January 19, 2017, EPA proposed to prohibit the manufacture, processing, distribution in commerce, or commercial use of TCE in vapor degreasing. A separate action (RIN 2070-AK03), published on December 16, 2016, proposed to address the unreasonable risks from TCE when used as a spotting agent in dry cleaning and in commercial and consumer aerosol

spray degreasers. The uses identified in the proposed rules are being considered as part of the risk evaluation currently being conducted for TCE under TSCA section 6(b).

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/19/17	82 FR 7432
Final Rule .....	To Be Determined	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Toni Krasnic, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 1200 Pennsylvania Avenue NW, Mail Code 7405M, Washington, DC 20460, *Phone:* 202 564-0984, *Email:* krasnic.toni@epa.gov.

Joel Wolf, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 1200 Pennsylvania Avenue NW, Mail Code 7405M, Washington, DC 20460, *Phone:* 202 564-0432, *Email:* wolf.joel@epa.gov.

*RIN:* 2070-AK11

**190. N-Methylpyrrolidone; Regulation of Certain Uses Under TSCA Section 6(a)**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 15 U.S.C. 2605 Toxic Substances Control Act

*Abstract:* Section 6(a) of the Toxic Substances Control Act provides authority for EPA to ban or restrict the manufacture (including import), processing, distribution in commerce, and use of chemical substances, as well as any manner or method of disposal. Section 26(l)(4) of TSCA authorizes EPA to issue rules under TSCA section 6 for chemicals listed in the 2014 update to the TSCA Work Plan for Chemical Assessments for which EPA published completed risk assessments prior to June 22, 2016, consistent with the scope of the completed risk assessment and other applicable requirements of section 6. N-methylpyrrolidone (NMP) is used in paint and coating removal in commercial processes and consumer products. In the March 2015 TSCA Work Plan Chemical Risk Assessment

for NMP, EPA characterized risks from use of this chemical in paint and coating removal. On January 19, 2017, EPA preliminarily determined that the use of NMP in paint and coating removal poses an unreasonable risk of injury to health. In the final rule for methylene chloride in consumer paint and coating removal (RIN 2070-AK07), EPA explained that the Agency was not finalizing the proposed regulation for NMP as part of that action. NMP use in paint and coating removal was incorporated into the risk evaluation currently being conducted under TSCA section 6(b).

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/17/17	82 FR 7464
Final Rule .....	To Be Determined	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Eileen Sheehan, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, USEPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, *Phone:* 415 972-3287, *Email:* sheehan.eileen@epa.gov.

Joel Wolf, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 1200 Pennsylvania Avenue NW, Mail Code 7405M, Washington, DC 20460, *Phone:* 202 564-0432, *Email:* wolf.joel@epa.gov.  
*RIN:* 2070-AK46

**ENVIRONMENTAL PROTECTION AGENCY (EPA)**

72

Final Rule Stage

**191. National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 42 U.S.C. 300f et seq., Safe Drinking Water Act

*Abstract:* The EPA proposed the Lead and Copper Rule (LCR) to include a suite of actions to reduce lead exposure in drinking water where it is needed the

most. The proposed rule identifies the most at-risk communities to ensure systems have plans in place to rapidly respond by taking actions to reduce elevated levels of lead in drinking water. The proposed LCR maintains the current Maximum Contaminant Level Goal (MCLG) of zero and the Action Level of 15 ppb. The proposed rule would require a more comprehensive response at the action level and introduces a trigger level of 10 ppb that requires more proactive planning in communities with lead service lines. The proposed revisions also include requirements for water systems to prepare an inventory of known lead service lines and to make the inventory publicly available. The proposal takes a proactive and holistic approach to improving the current rule—from testing to treatment to telling the public about the levels and risks of lead in drinking water. This approach focuses on the following six key areas: (1) Identifying areas most impacted; (2) strengthening treatment requirements; (3) replacing lead service lines; (4) increasing sampling; (5) improving risk communication; and (6) protecting children in schools.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/13/19	84 FR 61684
NPRM Comment Period Extended.	12/19/19	84 FR 69695
Final Rule .....	09/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Jeffrey Kempic, Environmental Protection Agency, Office of Water, 4607M, Washington, DC 20460, *Phone:* 202 564-4880, *Email:* kempic.jeffrey@epa.gov.

Lisa Christ, Environmental Protection Agency, Office of Water, 1200 Pennsylvania Avenue NW, Washington, DC 20460, *Phone:* 202 564-8354, *Email:* christ.lisa@epa.gov.

*RIN:* 2040-AF15

[FR Doc. 2020-16763 Filed 8-25-20; 8:45 am]

**BILLING CODE 6560-50-P**



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XVI

General Services Administration

---

Semiannual Regulatory Agenda

**GENERAL SERVICES  
ADMINISTRATION****41 CFR Chs. 101, 102, 105, and 302****48 CFR Ch. 5****Unified Agenda of Federal Regulatory  
and Deregulatory Actions****AGENCY:** General Services  
Administration (GSA).**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those that were completed since the fall 2019 edition. This agenda was developed under the guidelines of Executive Orders 12866 “Regulatory Planning and Review,” as amended, Executive Order 13771 “Reducing Regulation and Controlling Regulatory Costs,” and Executive Order 13563 “Improving Regulation and Regulatory Review.” GSA’s purpose in publishing this agenda is to allow interested persons an

opportunity to participate in the rulemaking process. GSA also invites interested persons to recommend existing significant regulations for review to determine whether they should be modified or eliminated. Published proposed rules may be reviewed in their entirety at the Government’s rulemaking website at <http://www.regulations.gov>.

Since the fall 2007 edition, the internet has been the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at [www.reginfo.gov](http://www.reginfo.gov), in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), GSA’s printed agenda entries include only:

(1) Rules that are in the Agency’s regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely

to have a significant economic impact on a substantial number of small entities; and

(2) Any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act’s Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the internet. In addition, for fall editions of the Agenda, the entire Regulatory Plan will continue to be printed in the **Federal Register**, as in past years, including GSA’s regulatory plan.

**FOR FURTHER INFORMATION CONTACT:** Lois Mandell, Division Director, Regulatory Secretariat Division, 1800 F Street NW, 2nd Floor, Washington, DC 20405–0001, 202–501–2735.

Dated: March 5, 2020.

**Jessica Salmoiraghi,**  
*Associate Administrator, Office of  
Government-wide Policy.*

**GENERAL SERVICES ADMINISTRATION—PRERULE STAGE**

Sequence No.	Title	Regulation Identifier No.
192 .....	General Services Acquisition Regulation (GSAR); GSAR Case 2020–G502, Increasing Order Level Competition for Federal Supply Schedules.	3090–AK15
193 .....	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G503, Increasing Order Level Competition for Indefinite-Delivery, Indefinite-Quantity Contracts.	3090–AK16

**GENERAL SERVICES ADMINISTRATION—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
194 .....	General Services Acquisition Regulation (GSAR); GSAR Case 2016–G511, Contract Requirements for GSA Information Systems.	3090–AJ84
195 .....	General Services Acquisition Regulation (GSAR); GSAR Case 2019–G503, Streamlining GSA Commercial Contract Clause Requirements.	3090–AK09
196 .....	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G504, Federal Supply Schedule Catalog Management.	3090–AK17
197 .....	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G505, Clarify Commercial Item Contract Terms and Conditions.	3090–AK18
198 .....	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G509, Extending Federal Supply Schedule Orders Beyond the Contract Term.	3090–AK19
199 .....	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G510, Federal Supply Schedule Economic Price Adjustment.	3090–AK20
200 .....	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G511, Updated Guidance for Non-Federal Entities Access to Federal Supply Schedules.	3090–AK21
201 .....	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G512, System for Award Management Representation for Leases.	3090–AK22
202 .....	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G513, Lease Payment Procedures ....	3090–AK23
203 .....	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G517, Contracting Exemption for Regulated Utilities.	3090–AK24
204 .....	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G534, Extension of Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment to Lease Acquisitions.	3090–AK29

## GENERAL SERVICES ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
205 .....	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2015–G506, Adoption of Construction Project Delivery Method Involving Early Industry Engagement.	3090–AJ64
206 .....	Federal Permitting Improvement Steering Council (FPISC); FPISC Case 2018–001; Fees for Governance, Oversight, and Processing of Environmental Reviews and Authorizations.	3090–AJ88
207 .....	Federal Permitting Improvement Steering Council (FPISC); FPISC Case 2019–001, Adding a New Sector of Covered Projects Under FAST–41 by the Federal Permitting Improvement Steering Council.	3090–AK13

**GENERAL SERVICES ADMINISTRATION (GSA)***Office of Acquisition Policy*

Prerule Stage

**192. • General Services Acquisition Regulation (GSAR); GSAR Case 2020–G502, Increasing Order Level Competition for Federal Supply Schedules**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 40 U.S.C. 121(c)  
*Abstract:* The General Services Administration (GSA) is issuing this Advance Notice of Proposed Rulemaking (ANPRM) to begin the process of amending the General Services Administration Acquisition Regulation (GSAR) to implement section 876 of the National Defense Authorization Act (NDAA) for Fiscal Year 2019 (Pub. L. 115–232) as it relates to Federal Supply Schedule contracts. Section 876 amended 41 U.S.C. 3306(c) by providing an exception to the requirement to consider price as an evaluation factor for the award of certain indefinite-delivery, indefinite-quantity contracts and Federal Supply Schedule contracts. By this ANPRM, GSA invites public comment on the substance of the issues contained. GSA will consider comments received in response to this ANPRM to develop proposed updates in a future rulemaking. A separate case, GSAR Case 2020–G503, will address the implementation of Section 876 in relation to other indefinite-delivery, indefinite-quantity contracts.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	07/00/20	
ANPRM Comment Period End.	10/00/20	
NPRM .....	12/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Thomas O'Linn, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, Phone: 202 445–0390, Email: thomas.olinn@gsa.gov.

RIN: 3090–AK15

**193. • General Service Acquisition Regulation (GSAR); GSAR Case 2020–G503, Increasing Order Level Competition for Indefinite-Delivery, Indefinite-Quantity Contracts***E.O. 13771 Designation:* Other.*Legal Authority:* 40 U.S.C. 121(c)

*Abstract:* The General Services Administration (GSA) is issuing this Advance Notice of Proposed Rulemaking (ANPRM) to begin the process of amending the General Services Administration Acquisition Regulation (GSAR) to implement section 876 of the National Defense Authorization Act (NDAA) for Fiscal Year 2019 (Pub. L. 115–232) as it relates to certain indefinite-delivery, indefinite-quantity contracts. Section 876 amended 41 U.S.C. 3306(c) by providing an exception to the requirement to consider price as an evaluation factor for the award of certain indefinite-delivery, indefinite-quantity contracts and Federal Supply Schedule contracts. By this ANPRM, GSA invites public comment on the substance of the issues contained. GSA will consider comments received in response to this ANPRM to develop proposed updates in a future rulemaking. A separate case, GSAR Case 2020–G502, will address the implementation of Section 876 in relation to Federal Supply Schedule contracts.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	07/00/20	
ANPRM Comment Period End.	10/00/20	
NPRM .....	12/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Thomas O'Linn, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, Phone: 202 445–0390, Email: thomas.olinn@gsa.gov.

RIN: 3090–AK16

**GENERAL SERVICES ADMINISTRATION (GSA)***Office of Acquisition Policy*

Proposed Rule Stage

**194. General Services Acquisition Regulation (GSAR); GSAR Case 2016–G511, Contract Requirements for GSA Information Systems***E.O. 13771 Designation:* Other.*Legal Authority:* 40 U.S.C. 121(c)

*Abstract:* The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to streamline and update requirements for contracts that involve GSA information systems. GSA's unique policies on cybersecurity and other information technology requirements have been previously communicated through other means. By incorporating these requirements into the GSAR, the GSAR will provide centralized guidance to ensure consistent application across the organization. Integrating these requirements into the GSAR will also allow industry to provide public comments through the rulemaking process.

*This rule will require contracting officers to incorporate applicable GSA cybersecurity requirements within the statement of work to ensure compliance with Federal cybersecurity requirements and implement best practices for preventing cyber incidents.* Contract requirements for internal information systems, external contractor systems, cloud systems, and mobile systems will be covered by this rule. This rule will also update existing GSAR provision 552.239–70, Information Technology Security Plan and Security Authorization, and GSAR clause 552.239–71, Security Requirements for Unclassified Information Technology Resources, to only require the provision and clause when the contract will involve information or information systems connected to a GSA network.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/00/20	

Action	Date	FR Cite
NPRM Comment Period End.	09/00/20	

*Regulatory Flexibility Analysis**Required: Yes.*

*Agency Contact:* Johnnie McDowell, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 718-6112, *Email:* johnnie.mcdowell@gsa.gov.  
*RIN:* 3090-AJ84

**195. General Services Acquisition Regulation (GSAR); GSAR Case 2019-G503, Streamlining GSA Commercial Contract Clause Requirements**

*E.O. 13771 Designation:* Other.*Legal Authority:* 40 U.S.C. 121(c)

*Abstract:* The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to streamline requirements for GSA commercial contracts. This rule will update GSAR Clauses 552.212-71 and 552.212-72 to remove any requirements that are not necessary by law or Executive Order.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	07/00/20 09/00/20	

*Regulatory Flexibility Analysis**Required: Yes.*

*Agency Contact:* Johnnie McDowell, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 718-6112, *Email:* johnnie.mcdowell@gsa.gov.  
*RIN:* 3090-AK09

**196. • General Service Acquisition Regulation (GSAR); GSAR Case 2020-G504, Federal Supply Schedule Catalog Management**

*E.O. 13771 Designation:* Other.*Legal Authority:* 40 U.S.C. 121(c)

*Abstract:* The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to consolidate all terms related to Federal Supply Schedule catalog management, which are currently spread across multiple clauses, into one consolidated clause.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	01/00/21 03/00/21	

*Regulatory Flexibility Analysis**Required: Yes.*

*Agency Contact:* Dana L. Bowman, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 357-9652, *Email:* dana.bowman@gsa.gov.  
*RIN:* 3090-AK17

**197. • General Service Acquisition Regulation (GSAR); GSAR Case 2020-G505, Clarify Commercial Item Contract Terms and Conditions**

*E.O. 13771 Designation:* Other.*Legal Authority:* 40 U.S.C. 121(c)

*Abstract:* The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to clarify commercial item contract terms and conditions. This rule will update GSAR Clause 552.212-4 to clarify the prescription and language applicable for the different clause alternates.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	01/00/21 03/00/21	

*Regulatory Flexibility Analysis**Required: Yes.*

*Agency Contact:* Johnnie McDowell, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 718-6112, *Email:* johnnie.mcdowell@gsa.gov.  
*RIN:* 3090-AK18

**198. • General Service Acquisition Regulation (GSAR); GSAR Case 2020-G509, Extending Federal Supply Schedule Orders Beyond the Contract Term**

*E.O. 13771 Designation:* Other.*Legal Authority:* 40 U.S.C. 121(c)

*Abstract:* The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to clarify, update, and incorporate existing Federal Supply Schedule (FSS) program policies and procedures regarding performance of orders beyond the term of the base FSS contract. Specifically, the local FSS program policy titled I-FSS-163 Option to Extend the Term of the Contract (Evergreen) will be incorporated.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	02/00/21 04/00/21	

*Regulatory Flexibility Analysis**Required: Yes.*

*Agency Contact:* Thomas O'Linn, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 445-0390, *Email:* thomas.olinn@gsa.gov.  
*RIN:* 3090-AK19

**199. • General Service Acquisition Regulation (GSAR); GSAR Case 2020-G510, Federal Supply Schedule Economic Price Adjustment**

*E.O. 13771 Designation:* Other.*Legal Authority:* 40 U.S.C. 121(c)

*Abstract:* The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to clarify, update, and incorporate Federal Supply Schedule (FSS) program policies and procedures regarding economic price adjustment. This rule will update GSAR Clause 552.216-70 to incorporate the clause alternates in GSA's existing class deviation CD-2019-14.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	11/00/20 01/00/21	

*Regulatory Flexibility Analysis**Required: Yes.*

*Agency Contact:* Thomas O'Linn, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 445-0390, *Email:* thomas.olinn@gsa.gov.  
*RIN:* 3090-AK20

**200. • General Service Acquisition Regulation (GSAR); GSAR Case 2020-G511, Updated Guidance for Non-Federal Entities Access to Federal Supply Schedules**

*E.O. 13771 Designation:* Other.*Legal Authority:* 40 U.S.C. 121(c); 40 U.S.C. 502

*Abstract:* The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to streamline and clarify the requirements for use of Federal Supply Schedules by eligible Non-Federal Entities, such as state and local governments. Eligible Non-Federal Entities are able to use Federal Supply Schedules based on authority from various laws, including 40 U.S.C. 502(c).

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/00/20	

Action	Date	FR Cite
NPRM Comment Period End.	01/00/21	

**Regulatory Flexibility Analysis**  
**Required: Yes.**

**Agency Contact:** Thomas O'Linn, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 445-0390, *Email:* thomas.olinn@gsa.gov.  
*RIN:* 3090-AK21

**201. • General Service Acquisition Regulation (GSAR); GSAR Case 2020-G512, System for Award Management Representation for Leases**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 40 U.S.C. 121(c)  
*Abstract:* The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to remove the requirement for lease offerors to have an active System for Award Management (SAM) registration when submitting offers and instead allow offers up until the time of award to obtain an active SAM registration. Entities seeking Federal leases differ from the typical entities seeking Federal contracts in that common practice is to form a new entity for every new lease offer. Requiring representations from these entities prior to offer submission restricts competition. In addition, the tools in SAM typically used in the Government's evaluation of offers do not add value when evaluating lease offers.

**Timetable:**

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	02/00/21 04/00/21	

**Regulatory Flexibility Analysis**  
**Required: Yes.**

**Agency Contact:** Marten Wallace, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7736, *Email:* marten.wallace@gsa.gov.  
*RIN:* 3090-AK22

**202. • General Service Acquisition Regulation (GSAR); GSAR Case 2020-G513, Lease Payment Procedures**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 40 U.S.C. 121(c)  
*Abstract:* The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to establish a new clause to allow for a pass-through of taxes under

payments for lease construction. The real estate tax base for a newly built or renovated building is uncertain until a tax assessment is completed, which can be a year or more after occupancy in some jurisdictions. Removing the tax base from the shell rent of a lease and providing a pass-through of the real estate taxes in lieu of a real estate tax adjustment over a base during the term of the lease will remove an element of risk from the pricing of rent, will result in greater competition, and will lower rental rates.

**Timetable:**

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	01/00/21 03/00/21	

**Regulatory Flexibility Analysis**  
**Required: Yes.**

**Agency Contact:** Marten Wallace, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7736, *Email:* marten.wallace@gsa.gov.  
*RIN:* 3090-AK23

**203. • General Service Acquisition Regulation (GSAR); GSAR Case 2020-G517, Contracting Exemption for Regulated Utilities**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 40 U.S.C. 121(c)  
*Abstract:* The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to remove the requirement to establish a contract for services provided by regulated public utilities. This rule provides a deviation to Federal Acquisition Regulation (FAR) 41.201 to remove the unnecessary and burdensome requirements to seek bilateral written contracts for services provided by public utilities and to implement new, more efficient procedures in the GSAR to streamline the process. This deviation only applies to the acquisition of services from regulated public utilities. Based on review of 31 U.S.C. 1501(a)(8) and opinions from the Government Accountability Office (GAO), the procedures set forth at FAR 41.2 are not necessary in order to comply with applicable fiscal law regarding the recording of obligations.

**Timetable:**

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	02/00/21 04/00/21	

**Regulatory Flexibility Analysis**  
**Required: Yes.**

**Agency Contact:** Vernita Misidor, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 357-9681, *Email:* vernita.misidor@gsa.gov.  
*RIN:* 3090-AK24

**204. • General Service Acquisition Regulation (GSAR); GSAR Case 2020-G534, Extension of Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment to Lease Acquisitions**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 40 U.S.C. 121(c)  
*Abstract:* The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to extend the requirements of section 889 of the National Defense Authorization Act (NDAA) for FY 19 (Pub. L. 115-232) to lease acquisitions by requiring inclusion of the related Federal Acquisition Regulation (FAR) provisions and clause. Generally, the FAR does not apply to leasehold acquisitions of real property. However, several FAR provisions have been adopted based on statutory requirements through GSAR part 570. Section 889 of the NDAA for FY 19 applies to Government lease acquisitions and extension of the FAR requirements will ensure compliance.

**Timetable:**

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	02/00/21 04/00/21	

**Regulatory Flexibility Analysis**  
**Required: Yes.**

**Agency Contact:** Michael Thompson, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208-1568, *Email:* michael.thompson@gsa.gov.  
*RIN:* 3090-AK29

**GENERAL SERVICES ADMINISTRATION (GSA)**

**Completed Actions**

**205. General Services Administration Acquisition Regulation (GSAR); GSAR Case 2015-G506, Adoption of Construction Project Delivery Method Involving Early Industry Engagement**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 40 U.S.C. 121(c)  
*Abstract:* The General Services Administration (GSA) is amending the

General Services Administration Acquisition Regulation (GSAR) to adopt an additional project delivery method for construction, construction manager as constructor (CMc). The current FAR and GSAR lacks detailed coverage differentiating various construction project delivery methods. GSA's policies on CMc have been previously issued through other means. By incorporating CMc into the GSAR and differentiating for various construction methods, the GSAR provides centralized guidance to ensure consistent application of construction project principles across the organization.

*Completed:*

Reason	Date	FR Cite
Final Rule .....	12/19/19	84 FR 69627

Reason	Date	FR Cite
Final Rule Effective.	01/21/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Christina Mullins, *Phone:* 202 969-4066, *Email:* christina.mullins@gsa.gov.

*RIN:* 3090-AJ64

**206. Federal Permitting Improvement Steering Council (FPISC); FPISC Case 2018-001; Fees for Governance, Oversight, and Processing of Environmental Reviews and Authorizations**

*Timetable:*

Action	Date	FR Cite
Transferred to RIN 3121-AA00.	03/05/20	

*RIN:* 3090-AJ88

**207. Federal Permitting Improvement Steering Council (FPISC); FPISC Case 2019-001, Adding a New Sector of Covered Projects Under FAST-41 by the Federal Permitting Improvement Steering Council**

*Timetable:*

Action	Date	FR Cite
Transferred to RIN 3121-AA01.	03/05/20	

*RIN:* 3090-AK13

[FR Doc. 2020-16764 Filed 8-25-20; 8:45 am]

**BILLING CODE 6820-34-P**





# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XVII

National Aeronautics and Space Administration

---

Semiannual Regulatory Agenda

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**14 CFR Ch. V**

**Regulatory Agenda**

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** NASA’s regulatory agenda describes those regulations being considered for development or

amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of the knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported.

**ADDRESSES:** Deputy Associate Administrator, Office of the Mission Support Directorate, NASA Headquarters, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Cheryl E. Parker, (202) 358–0252.

**SUPPLEMENTARY INFORMATION:** OMB guidelines dated January 16, 2020, “Spring 2019 Unified Agenda of Federal Regulatory and Deregulatory Actions,” require a regulatory agenda of those regulations under development and review to be published in the **Federal Register** each spring and fall.

Dated: March 5, 2020.

**Joel R. Carney,**  
*Deputy Associate Administrator, Mission Operations Support Directorate.*

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
208 .....	NASA Harassment Report Case Files (10 HRCF) Exemption ( <b>Section 610 Review</b> ) .....	2700–AE50

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)**

Completed Actions

**208. NASA Harassment Report Case Files (10 HRCF) Exemption (Section 610 Review)**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 5 U.S.C. 552a, The Privacy Act of 1974

*Abstract:* NASA is issuing a direct final rule to modify the Agency’s Privacy Act Regulations to exempt investigative materials found in NASA Harassment Report Case Files. The harassment report case records are used

for the purpose of investigative materials for potential law enforcement purposes. The exemption would prevent these investigative case files from being released under the Privacy Act. Case Files records are exempted from the following sections of the Privacy Act (5 U.S.C. 552a): (c)(3) relating to access to the disclosure accounting; (d) relating to access to the records; (e)(1) relating to the type of information maintained in the records; (e)(4)(G), (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to

developing agency rules for gaining access and making corrections.

*Completed:*

Reason	Date	FR Cite
Withdrawn .....	02/27/20	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Patti Stockman,  
*Phone:* 202 358–4787, *Email:* [patti.stockman@nasa.gov](mailto:patti.stockman@nasa.gov).

*RIN:* 2700–AE50

[FR Doc. 2020–16765 Filed 8–25–20; 8:45 am]

**BILLING CODE 7510–13–P**



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XVIII

Office of Management and Budget

---

Semiannual Regulatory Agenda

**OFFICE OF MANAGEMENT AND BUDGET**

48 CFR Ch. 99

2 CFR Chs. 1 and 2

**Federal Regulations, Guidance, OFPP Policy Letters, and CASB Cost Accounting Standards Included in the Semiannual Agenda of Federal Activities****AGENCY:** Office of Management and Budget.**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The Office of Management and Budget (OMB) is publishing its semiannual agenda of upcoming activities for Federal regulations, OMB Guidance, Office of Federal Procurement Policy (OFPP) Policy Letters, and Cost Accounting Standards (CAS) Board Cost Accounting Standards.

OMB Guidance and OFPP Policy Letters are published in accordance with OMB's internal procedures for implementing Executive Order 12866 (October 4, 1993, 58 FR 51735). OMB policy guidelines are issued under authority derived from several sources, including: Subtitles I, II, and V of title 31, United States Code; Executive Order 11541; and other specific authority as cited. OMB Guidance and OFPP Policy Letters communicate guidance and instructions of a continuing nature to executive branch agencies. As such, most OMB Guidance and OFPP Policy Letters are not regulations. Nonetheless, because these issuances are typically of interest to the public, they are generally published in the **Federal Register** at both the proposed (for public comment) and final stages. For this reason, they are presented below in the standard format of "pre-rule," "proposed rule," and "final rule" stages.

CASB Cost Accounting Standards are issued under authority derived from 41

U.S.C. 1501 *et. seq.* Cost Accounting Standards are rules governing the measurement, assignment, and allocation of costs to contracts entered into with the United States Government.

For purposes of this agenda, we have excluded directives that outline procedures to be followed in connection with the President's budget and legislative programs, as well as directives that affect only the internal functions, management, or personnel of Federal agencies.

**FOR FURTHER INFORMATION CONTACT:** See the agency contact person listed for each entry in the agenda, c/o Office of Management and Budget, Washington, DC 20503. On the overall agenda, contact Lindsay Fraser, (202) 395-8084, at the above address.

**Tim Soltis,**

Deputy Controller, Office of Federal Financial Management.

**OFFICE OF MANAGEMENT AND BUDGET—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
209 .....	Federal Acquisition Security Council Implementing Regulation .....	0348-AB83

**OFFICE OF MANAGEMENT AND BUDGET (OMB)**

Final Rule Stage

**209. Federal Acquisition Security Council Implementing Regulation***E.O. 13771 Designation:* Other.*Legal Authority:* Pub. L. 115-390 sec. 202(c)

*Abstract:* This interim final rule will implement subchapter III of chapter 13 of title 41, United States Code.

Subchapter III creates the Federal Acquisition Security Council, and identifies a number of functions to be performed by the Council. The FASC is chaired by a designated OMB Senior-Level official, and Public Law 115-390 requires that the FASC publish an interim final rule to implement these functions.

*Timetable:*

Action	Date	FR Cite
Final Action .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Amy Hamilton, Office of Management and Budget, Phone: 202 395-0372.

*RIN:* 0348-AB83

[FR Doc. 2020-16756 Filed 8-25-20; 8:45 am]

**BILLING CODE 3110-01-P**



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XIX

Railroad Retirement Board

---

Semiannual Regulatory Agenda

**RAILROAD RETIREMENT BOARD****20 CFR Ch. II****Semiannual Agenda of Regulations Under Development or Review****AGENCY:** Railroad Retirement Board.**ACTION:** Semiannual regulatory agenda.**SUMMARY:** This agenda contains a list of regulations that the Board is developing

or proposes to develop in the next 12 months and regulations that are scheduled to be reviewed in that period.

**ADDRESSES:** 844 North Rush Street, Chicago, IL 60611-1275.**FOR FURTHER INFORMATION CONTACT:**

Marguerite P. Dadabo, Assistant General Counsel, Office of General Counsel, Railroad Retirement Board, (312) 751-4945, Fax (312) 751-7102, TDD (312) 751-4701.

**SUPPLEMENTARY INFORMATION:**

Regulations that are routine in nature or which pertain solely to internal Agency management have not been included in the agenda.

Dated: March 5, 2020.

By Authority of the Board.

**Stephanie Hillyard,***Secretary to the Board.***RAILROAD RETIREMENT BOARD—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
210 .....	Proposed Amendment to Update the Titles of Various Executive Committee Members Whose Office Titles Have Changed ( <b>Section 610 Review</b> ).	3220-AB72
211 .....	Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Railroad Retirement Board ( <b>Section 610 Review</b> ).	3220-AB73

**RAILROAD RETIREMENT BOARD (RRB)**

## Long-Term Actions

**210. Proposed Amendment To Update the Titles of Various Executive Committee Members Whose Office Titles Have Changed (Section 610 Review)***E.O. 13771 Designation:* Fully or Partially Exempt.*Legal Authority:* 45 U.S.C. 231f; 45 U.S.C. 362

*Abstract:* The Railroad Retirement Board proposes to amend its regulations to update 20 CFR 375.5(b), which will change the titles of various Executive Committee members whose office titles have changed. The Railroad Retirement Board (Board) proposes to amend its regulations governing the Board's policy on delegation of authority in case of national emergency. The regulation to be amended is contained in section 375.5. In section 375.5(b) of the Board's regulations, the Board proposes to remove the language that refers to the "Director of Supply and Service" and the "Regional Directors," to update the title of Director of Administration to

"Director of Administration/COOP Executive," and to add the positions of "Chief Financial Officer" and "Director of Field Service" to the delegation of authority chain. Finally, the delegation of authority chain will be updated to reflect the addition of the updated titles and the removal of outdated positions.

*Timetable:*

Action	Date	FR Cite
Direct Final Rule	10/00/21	

*Regulatory Flexibility Analysis**Required:* No.

*Agency Contact:* Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, Office of General Counsel, 844 North Rush Street, Room 811, Chicago, IL 60611, *Phone:* 312 751-4945, *TDD Phone:* 312 751-4701, *Fax:* 312 751-7102.

*RIN:* 3220-AB72**211. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Railroad Retirement Board (Section 610 Review)***E.O. 13771 Designation:* Fully or Partially Exempt.*Legal Authority:* 29 U.S.C. 794

*Abstract:* We propose to amend our regulations at 20 CFR part 365 to update terminology to refer to individuals with a disability. This amendment replaces the term "handicap" with the term "disability" to match the statutory language in the Rehabilitation Act Amendment of 1992, Public Law 102-569, 106 Stat. 4344.

*Timetable:*

Action	Date	FR Cite
Direct Final Rule	10/00/21	

*Regulatory Flexibility Analysis**Required:* No.

*Agency Contact:* Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, Office of General Counsel, 844 North Rush Street, Room 811, Chicago, IL 60611, *Phone:* 312 751-4945, *TDD Phone:* 312 751-4701, *Fax:* 312 751-7102.

*RIN:* 3220-AB73

[FR Doc. 2020-16766 Filed 8-25-20; 8:45 am]

**BILLING CODE 7905-01-P**



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XX

Small Business Administration

---

Semiannual Regulatory Agenda

**SMALL BUSINESS ADMINISTRATION****13 CFR Ch. I****Semiannual Regulatory Agenda**

**AGENCY:** U.S. Small Business Administration (SBA).

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This semiannual Regulatory Agenda (Agenda) is a summary of current and projected regulatory and deregulatory actions and completed actions of the Small Business Administration (SBA). This summary information is intended to enable the public to be more aware of, and effectively participate in, SBA's regulatory and deregulatory activities. Accordingly, SBA invites the public to submit comments on any aspect of this Agenda.

**FOR FURTHER INFORMATION CONTACT:****General**

Please direct general comments or inquiries to Imelda A. Kish, Law Librarian, U.S. Small Business Administration, 409 Third Street SW,

Washington, DC 20416, (202) 205-6849, [imelda.kish@sba.gov](mailto:imelda.kish@sba.gov).

**Specific**

Please direct specific comments and inquiries on individual regulatory activities identified in this Agenda to the individual listed in the summary of the regulation as the point of contact for that regulation.

**SUPPLEMENTARY INFORMATION:** The Regulatory Flexibility Act (RFA) requires SBA to publish in the **Federal Register** a semiannual regulatory flexibility agenda describing those Agency rules that are likely to have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). The summary information published in the **Federal Register** is limited to those rules. Additional information regarding all of the rulemakings SBA expects to consider in the next 12 months is included in the Federal Government's complete Regulatory Agenda, which will be available online at [www.reginfo.gov](http://www.reginfo.gov) in a format that offers users enhanced ability to obtain information about SBA's rules.

The RFA also requires that SBA periodically initiate a review of its rules under Section 610 to determine whether certain rules should be continued without change, or should be amended or rescinded, to minimize adverse economic impacts on small entities. SBA is currently engaged in this process and is soliciting public comments via **Federal Register** Notice.

SBA is fully committed to implementing the Administration's regulatory reform policies, as established by Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs (January 30, 2017) and Executive Order 13777, Enforcing the Regulatory Reform Agenda (February 24, 2017). In order to fully implement the goal of these executive orders, SBA seeks feedback from the public in identifying any SBA regulations that affected parties believe impose unnecessary burdens or costs that exceed their benefits, eliminate jobs or inhibit job creation, or are ineffective or outdated.

**Jovita Carranza,**  
Administrator.

**SMALL BUSINESS ADMINISTRATION—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
212 .....	Small Business Development Center Program Revisions .....	3245-AE05
213 .....	Small Business Size Standards; Alternative Size Standard for 7(a), 504, and Disaster Loan Programs .....	3245-AG16
214 .....	Small Business Size Standards: Educational Services; Health Care and Social Assistance; Arts, Entertainment and Recreation; Accommodation and Food Services; Other Services.	3245-AG88
215 .....	Small Business Size Standards: Agriculture, Forestry, Fishing and Hunting; Mining, Quarrying, and Oil and Gas Extraction; Utilities; Construction.	3245-AG89
216 .....	Small Business Size Standards: Transportation and Warehousing; Information; Finance and Insurance; Real Estate and Rental and Leasing.	3245-AG90
217 .....	Small Business Size Standards: Professional, Scientific and Technical Services; Management of Companies and Enterprises; Administrative and Support, Waste Management and Remediation Services.	3245-AG91
218 .....	Small Business Size Standards: Manufacturing and Industries With Employee Based Size Standards in Other Sectors Except Wholesale Trade and Retail Trade.	3245-AH09
219 .....	Small Business Size Standards: Wholesale Trade and Retail Trade .....	3245-AH10
220 .....	8(a) Business Development ( <b>Section 610 Review</b> ) .....	3245-AH19
221 .....	Government Contracting Programs ( <b>Section 610 Review</b> ) .....	3245-AH20
222 .....	HUBZone Program ( <b>Section 610 Review</b> ) .....	3245-AH21
223 .....	Small Business Size Standards: Calculation of Average Annual Receipts in Business Loan, Disaster Loan, and Small Business Investment Company Programs.	3245-AH26
224 .....	National Defense Authorization Act of 2020, Credit for Lower Tier Subcontracting and Other Amendments	3245-AH28

**SMALL BUSINESS ADMINISTRATION—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
225 .....	Small Business Timber Set-Aside Program .....	3245-AG69
226 .....	Small Business Size Standards: Adjustment of Monetary Based Size Standards for Inflation .....	3245-AH17

**SMALL BUSINESS ADMINISTRATION—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
227 .....	National Defense Authorization Acts of 2016 and 2017, RISE After Disaster Act of 2015, and Other Small Business Government Contracting Amendments.	3245-AG86



## SMALL BUSINESS ADMINISTRATION—COMPLETED ACTIONS—Continued

Sequence No.	Title	Regulation Identifier No.
228 .....	Small Business Size Standards: Calculation of Annual Average Receipts .....	3245-AH16

**SMALL BUSINESS ADMINISTRATION (SBA)**

## Proposed Rule Stage

**212. Small Business Development Center Program Revisions**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 15 U.S.C. 634(b)(6);  
 15 U.S.C. 648

*Abstract:* This rule proposes to update the Small Business Development Center (SBDC) program regulations by proposing to amend: (1) Procedures for approving applications when a new Lead SBDC center is selected; (2) procedures and requirements regarding findings and disputes resulting from financial exams, programmatic reviews, accreditation reviews, and other SBA oversight activities; (3) requirements for new or renewal applications for SBDC grants, including electronic submission through the approved electronic Government submission facility; (4) procedures regarding the determination to affect suspension, termination or non-renewal of an SBDC's cooperative agreement; and (5) provisions regarding the collection and use of the individual SBDC client data.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	04/02/15	80 FR 17708
ANPRM Comment Period End.	06/01/15	
NPRM .....	12/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Rachel Newman-Karton, Program Manager, Small Business Administration, 409 3rd Street SW, Washington, DC 20416, *Phone:* 202 619-1816, *Email:* rachel.newman-karton@sba.gov.

*RIN:* 3245-AE05

**213. Small Business Size Standards; Alternative Size Standard for 7(a), 504, and Disaster Loan Programs**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* Pub. L. 111-240, sec. 1116

*Abstract:* SBA will propose amendments its size eligibility criteria for Business Loans, certified development company (CDC) loans under title V of the Small Business Investment Act (504) and economic

injury disaster loans (EIDL). For the SBA 7(a) Business Loan Program and the 504 program, the amendments will provide an alternative size standard for loan applicants that do not meet the small business size standards for their industries. The Small Business Jobs Act of 2010 (Jobs Act) established alternative size standards that apply to both of these programs until SBA's Administrator establishes other alternative size standards. For the disaster loan program, the amendments will provide an alternative size standard for loan applicants that do not meet the Small Business Size Standard for their industries. SBA loan program alternative size standards do not affect other Federal Government programs, including Federal procurement.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	03/22/18	83 FR 12506
ANPRM Comment Period End.	05/21/18	
NPRM .....	12/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

*RIN:* 3245-AG16

**214. Small Business Size Standards: Educational Services; Health Care and Social Assistance; Arts, Entertainment and Recreation; Accommodation and Food Services; Other Services**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 15 U.S.C. 632(a)  
*Abstract:* The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate size standards for all industries in North American Industry Classification System (NAICS) Sector 61 (Educational Services), Sector 62 (Health Care and Social Assistance), Sector 71 (Arts, Entertainment and Recreation), Sector 72 (Accommodation

and Food Services), and Sector 81 (Other Services) and make necessary adjustments to size standards in these sectors. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its Size Standards Methodology to this proposed rule.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

*RIN:* 3245-AG88

**215. Small Business Size Standards: Agriculture, Forestry, Fishing and Hunting; Mining, Quarrying, and Oil and Gas Extraction; Utilities; Construction**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 15 U.S.C. 632(a)  
*Abstract:* The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate each industry that has a receipts-based standard in North American Industry Classification System (NAICS) Sector 11 (Agriculture, Forestry, Fishing and Hunting), Sector 21 (Mining, Quarrying, and Oil and Gas Extraction), Sector 22 (Utilities), and Sector 23 (Construction), and make necessary adjustments to size standards in these sectors. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its Size Standards Methodology to this proposed rule.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

*RIN:* 3245-AG89

**216. Small Business Size Standards: Transportation and Warehousing; Information; Finance and Insurance; Real Estate and Rental and Leasing**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 15 U.S.C. 632(a)

*Abstract:* The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate each industry that has a receipts-based standard in North American Industry Classification System (NAICS) Sector 48-49 (Transportation and Warehousing), Sector 51 (Information), Sector 52 (Finance and Insurance), and Sector 53 (Real Estate and Rental and Leasing) and make necessary adjustments to size standards in these sectors. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its Size Standards Methodology to this proposed rule.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

*RIN:* 3245-AG90

**217. Small Business Size Standards: Professional, Scientific and Technical Services; Management of Companies and Enterprises; Administrative and Support, Waste Management and Remediation Services**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 15 U.S.C. 632(a)

*Abstract:* The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under

the Jobs Act, in this proposed rule, SBA will evaluate each industry that has a receipts-based standard in North American Industry Classification System (NAICS) Sector 54 (Professional, Scientific and Technical Services), Sector 55 (Management of Companies and Enterprises), and Sector 56 (Administrative and Support, Waste Management and Remediation Services) and make necessary adjustments to size standards in these sectors. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its Size Standards Methodology to this proposed rule.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

*RIN:* 3245-AG91

**218. Small Business Size Standards: Manufacturing and Industries With Employee Based Size Standards in Other Sectors Except Wholesale Trade and Retail Trade**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 15 U.S.C. 632(a)

*Abstract:* The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second 5-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate all industries in North American Industry Classification System (NAICS) Sector 31-33 (Manufacturing) and industries with employee based size standards in other sectors except Wholesale Trade and Retail Trade and make necessary adjustments to their size standards. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its revised Size Standards Methodology, which is available on its website at <http://www.sba.gov/size>, to this proposed rule.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

*RIN:* 3245-AH09

**219. Small Business Size Standards: Wholesale Trade and Retail Trade**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 15 U.S.C. 632(a)

*Abstract:* The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second 5-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate all industries in North American Industry Classification System (NAICS) Sector 42 (Wholesale Trade) and Sector 44-45 (Retail Trade) and make necessary adjustments to their size standards. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its revised Size Standards Methodology, which is available on its website at <http://www.sba.gov/size>, to this proposed rule.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/00/21	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

*RIN:* 3245-AH10

**220. 8(a) Business Development (Section 610 Review)**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 15 U.S.C. 637

*Abstract:* Under part 124, 8(a) Business Development/Small Disadvantaged Business Status Determinations, SBA has promulgated several rules that the Agency certified would have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. These rules established eligibility requirements for participation in the 8(a) programs and application, certification, and protest procedures, among other things. SBA is now initiating a review of these rules under section 610 of the Regulatory

Flexibility Act to determine if the rules should be continued without change, or should be amended or rescinded, to minimize adverse economic impacts on small entities. In the course of the review, SBA will consider the following factors: (1) The continued need for the rule; (2) the comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with Federal, State, or local government rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. SBA will solicit comments. Comments may be submitted through <http://www.regulations.gov/> referring to RIN 3245-AH19.

*Timetable:*

Action	Date	FR Cite
Begin Review .....	04/28/20	85 FR 23487
Comment Period End.	07/27/20	
End Review .....	10/00/20	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Brenda J. Fernandez, Analyst, Office of Policy, Planning and Liaison, Small Business Administration, 409 Third Street SW, Washington, DC 20416, Phone: 202 205-7337, Email: [brenda.fernandez@sba.gov](mailto:brenda.fernandez@sba.gov).

RIN: 3245-AH19

## 221. Government Contracting Programs (Section 610 Review)

*E.O. 13771 Designation:* Other.

*Legal Authority:* Regulatory Flexibility Act, 5 U.S.C. 610; 15 U.S.C. 634; 15 U.S.C. 637; 15 U.S.C. 644

*Abstract:* Under part 125, Government Contracting Programs, SBA has promulgated several rules that the Agency certified would have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. These rules established requirements for participation in SBA's government contracting programs, contracting provisions, and protest procedures, among other things. SBA is now initiating a review of these rules under section 610 of the Regulatory Flexibility Act to determine if the rules should be continued without change, or should be amended or rescinded, to minimize adverse economic impacts on small entities. In the course of the review, SBA will consider the following factors: (1) The continued need for the rule; (2) the comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts

with Federal, State, or local government rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. SBA will solicit comments. Comments may be submitted through [www.regulations.gov](http://www.regulations.gov/), referring to RIN 3245-AH20.

*Timetable:*

Action	Date	FR Cite
Begin Review .....	04/28/20	85 FR 23487
Comment Period End.	07/27/20	
End Review .....	10/00/20	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Brenda J. Fernandez, Analyst, Office of Policy, Planning and Liaison, Small Business Administration, 409 Third Street SW, Washington, DC 20416, Phone: 202 205-7337, Email: [brenda.fernandez@sba.gov](mailto:brenda.fernandez@sba.gov).

RIN: 3245-AH20

## 222. HUBZone Program (Section 610 Review)

*E.O. 13771 Designation:* Other.

*Legal Authority:* Regulatory Flexibility Act, 5 U.S.C. 610; 15 U.S.C. 632 ; 15 U.S.C. 657a

*Abstract:* Under part 126, HUBZone Program, SBA has promulgated several rules that the Agency certified would have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. These rules established eligibility requirements for qualified HUBZone small business concerns, procedures for certification program examinations and protests, and provisions relating to HUBZone contracts, among other things. SBA is now initiating a review of these rules under section 610 of the Regulatory Flexibility Act to determine if the rules should be amended or rescinded to minimize adverse economic impacts on small entities. In the course of the review, SBA will consider the following factors: (1) The continued need for the rule; (2) the comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with Federal, State, or local government rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. SBA will solicit comments. Comments may be submitted through <http://www.regulations.gov/> referring to RIN 3245-AH21.

*Timetable:*

Action	Date	FR Cite
Begin Review .....	04/28/20	85 FR 23487
Comment Period End.	07/27/20	
End Review .....	10/00/20	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Brenda J. Fernandez, Analyst, Office of Policy, Planning and Liaison, Small Business Administration, 409 Third Street SW, Washington, DC 20416, Phone: 202 205-7337, Email: [brenda.fernandez@sba.gov](mailto:brenda.fernandez@sba.gov).

RIN: 3245-AH21

## 223. • Small Business Size Standards: Calculation of Average Annual Receipts in Business Loan, Disaster Loan, and Small Business Investment Company Programs

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 15 U.S.C. 632(a)(2); Pub. L. 115-324

*Abstract:* The Small Business Runway Extension Act, Public Law 115-324, amended the Small Business Act to provide for calculation of average annual receipts using a 5-year average, rather than the prior 3-year average, in defined circumstances. For firms subject to SBA's receipt-based size standards (generally, service-industry, construction, and agricultural firms), a lengthened averaging period permits firms with increasing revenues to stay eligible for small business benefits for longer. In RIN 3245-AH16, SBA implemented the Small Business Runway Extension Act in programs other than SBA's loan programs—including SBA's procurement programs—and SBA issued its final rule in that first rulemaking on December 5, 2019 (84 FR 66561). This second rulemaking would consider how to address the Small Business Runway Extension Act in SBA's business loan, disaster loan, and SBIC programs.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, Phone: 202 205-7189, Fax: 202 205-6390, Email: [khem.sharma@sba.gov](mailto:khem.sharma@sba.gov).

RIN: 3245-AH26

## 224. • National Defense Authorization Act of 2020, Credit for Lower Tier Subcontracting and Other Amendments

*E.O. 13771 Designation:* Other.

*Legal Authority:* Pub. L. 116–92

*Abstract:* Section 870 of the National Defense Authorization Act of 2020 (NDAA 2020) made a change that will require SBA to amend its regulations. Specifically, the language of NDAA 2020 requires SBA to alter the method and means of accounting for lower tier small business subcontracting. This proposed rule may also contain several smaller changes that might be necessary to implement this provision and other provisions in NDAA 2020.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Brenda J. Fernandez, Analyst, Office of Policy, Planning and Liaison, Small Business Administration, 409 Third Street SW, Washington, DC 20416, Phone: 202 205–7337, Email: [brenda.fernandez@sba.gov](mailto:brenda.fernandez@sba.gov).  
RIN: 3245–AH28

## SMALL BUSINESS ADMINISTRATION (SBA)

Final Rule Stage

### 225. Small Business Timber Set-Aside Program

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 15 U.S.C. 631; 15 U.S.C. 644(a)

*Abstract:* The U.S. Small Business Administration (SBA or Agency) is amending its Small Business Timber Set-Aside Program (the Program) regulations. The Small Business Timber Set-Aside Program is rooted in the Small Business Act, which tasked SBA with ensuring that small businesses receive a fair proportion of the total sales of government property. Accordingly, the Program requires Timber sales to be set aside for small business when small business participation falls below a certain amount. SBA considered comments received during the Advance Notice of Proposed Rulemaking and Notice of Proposed Rulemaking processes, including on issues such as, but not limited to, whether the saw timber volume purchased through stewardship timber contracts should be included in calculations, and whether the appraisal point used in set-aside sales should be the nearest small business mill. In

addition, SBA is considering data from the timber industry to help evaluate the current program and economic impact of potential changes.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	03/25/15	80 FR 15697
ANPRM Comment Period End.	05/26/15	
NPRM .....	09/27/16	81 FR 66199
NPRM Comment Period End.	11/28/16	
Final Rule .....	08/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* David W. Loines, Director, Office of Government Contracting, Small Business Administration, 409 Third Street SW, Washington, DC 20416, Phone: 202 431–0472, Email: [david.loines@sba.gov](mailto:david.loines@sba.gov).  
RIN: 3245–AG69

### 226. Small Business Size Standards: Adjustment of Monetary Based Size Standards for Inflation

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 15 U.S.C. 632(a)

*Abstract:* In this final rule, the U.S. Small Business Administration (SBA or Agency) adjusts all monetary based industry size standards (*i.e.*, receipts, assets, net worth, and net income) for inflation since the last adjustment in 2014. In accordance with its regulations in 13 CFR 121.102(c), SBA is required to review the effects of inflation on its monetary standards at least once every five years and adjust them, if necessary. In addition, the Small Business Jobs Act of 2010 (Jobs Act) also requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. This action will restore the small business eligibility of businesses that have lost that status due to inflation.

*Timetable:*

Action	Date	FR Cite
Interim Final Rule	07/18/19	84 FR 34261
Interim Final Rule Effective.	08/19/19	
Interim Final Rule Comment Period End.	09/16/19	
Final Action .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, Phone: 202 205–7189, Fax: 202

205–6390, Email: [khem.sharma@sba.gov](mailto:khem.sharma@sba.gov).

RIN: 3245–AH17

## SMALL BUSINESS ADMINISTRATION (SBA)

Completed Actions

### 227. National Defense Authorization Acts of 2016 and 2017, Rise After Disaster Act of 2015, and Other Small Business Government Contracting Amendments

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 15 U.S.C. 637(d)(17); Pub. L. 114–328, sec. 1811, sec. 1821; Pub. L. 114–92, sec. 863; Pub. L. 114–88, sec. 2108

*Abstract:* Section 1811 of the of the National Defense Authorization Act (NDAA) for Fiscal Year 2017, Public Law 114–328, December 23, 2016, (NDAA) of 2017 limits the scope of review of Procurement Center Representatives for certain Department of Defense procurements performed outside of the United States. Section 1821 of the NDAA of 2017 establishes that failure to act in good faith in providing timely subcontracting reports shall be considered a material breach of the contract. Section 863 of the NDAA for FY 2016, Public Law 114–92, November 25, 2015, establishes procedures for the publication of acquisition strategies if the acquisition involves consolidation or substantial bundling. This rule also addresses changes requested by industry or other agencies, including those pertaining to exclusions from calculating compliance with the limitations on subcontracting, an agency's ability to set aside orders under set-aside contracts, and a contracting officer's authority to request reports on a prime contractor's compliance with the limitations on subcontracting. Section 2108 of Public Law 114–88 provides agencies with double credit when they award to a local small business in a disaster area.

*Completed:*

Reason	Date	FR Cite
Final Rule .....	11/29/19	84 FR 65647
Final Rule Effective.	12/30/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Khem Raj Sharma, Phone: 202 205–7189, Fax: 202 205–6390, Email: [khem.sharma@sba.gov](mailto:khem.sharma@sba.gov).

RIN: 3245–AG86

**228. Small Business Size Standards:  
Calculation of Annual Average Receipts**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 15 U.S.C. 632(a); Pub. L. 115–32

*Abstract:* On December 17, 2018, the President signed the Small Business Runway Extension Act (Pub. L. 115–32), which amended section 3(a)(2)(C)(ii)(II) of the Small Business Act (15 U.S.C. 632(a)(2)(C)(ii)(II)) by changing calculating average annual receipts for size standard purposes. This rulemaking is to implement the new law by changing the period for calculating

annual average revenue receipts for receipts based size standards from three (3) years to five (5) years in 13 CFR 121.104.

The Small Business Act (15 U.S.C. 632(a)) delegates to SBA's Administrator the responsibility for establishing, reviewing, and updating small business definitions, commonly referred to as size standards. The Small Business Runway Extension Act amended the Small Business Act, changing the period for calculating average annual receipts from three (3) years to five (5) years.

*Completed:*

Reason	Date	FR Cite
Final Rule .....	12/05/19	84 FR 66561
Final Rule Effective.	01/06/20	

*Regulatory Flexibility Analysis  
Required:* Yes.

*Agency Contact:* Khem Raj Sharma,  
*Phone:* 202 205–7189, *Fax:* 202 205–  
6390, *Email:* khem.sharma@sba.gov.

*RIN:* 3245–AH16

[FR Doc. 2020–17081 Filed 8–25–20; 8:45 am]

**BILLING CODE 8026–03–P**





# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XXI

Department of Defense

General Services Administration

National Aeronautics and Space Administration

---

Semiannual Regulatory Agenda

**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Ch. 1****Semiannual Regulatory Agenda**

**AGENCY:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in

compliance with Executive Order 12866 “Regulatory Planning and Review.”

This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process. The Regulatory Secretariat Division has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

Published proposed rules may be reviewed in their entirety at the Government’s rulemaking website at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Lois Mandell, Division Director, Regulatory Secretariat Division, 1800 F Street NW, 2nd Floor, Washington, DC 20405–0001, 202–501–4755.

**SUPPLEMENTARY INFORMATION:** DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the FAR through periodic issuance of changes published in the **Federal Register** and produced electronically as Federal Acquisition Circulars (FACs).

The electronic version of the FAR, including changes, can be accessed on the FAR website at <http://www.acquisition.gov/far>.

Dated: March 5, 2020.

**William F. Clark,**

*Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.*

**DOD/GSA/NASA (FAR)—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
229 .....	FAR Acquisition Regulation (FAR); FAR Case 2015–038, Reverse Auction Guidance .....	9000–AN31
230 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–014, Use of Acquisition 360 to Encourage Vendor Feedback.	9000–AN43
231 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–013, Breaches of Personally Identifiable Information.	9000–AN44
232 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–011, Section 508-Based Standards in Information and Communication Technology.	9000–AN46
233 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–016, Controlled Unclassified Information (CUI) .....	9000–AN56
234 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–018, Violation of Arms Control Treaties or Agreements With the United States.	9000–AN57
235 .....	Federal Regulation Acquisition (FAR); FAR Case 2017–019, Policy on Joint Ventures .....	9000–AN59
236 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–002, Protecting Life in Global Health Assistance ..	9000–AN62
237 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–006, Definition of Subcontract .....	9000–AN66
238 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–012, Rights to Federally Funded Inventions and Licensing of Government-Owned Inventions.	9000–AN71
239 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–013, Exemption of Commercial and COTS Item Contracts From Certain Laws and Regulations.	9000–AN72
240 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–014, Increasing Task-Order Level Competition .....	9000–AN73
241 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–018, Revision of Definition of “Commercial Item”	9000–AN76
242 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–020, Construction Contract Administration .....	9000–AN78
243 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–001, Analysis for Equipment Acquisitions .....	9000–AN84
244 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–003, Substantial Bundling and Consolidation .....	9000–AN86
245 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–004, Good Faith in Small Business Subcontracting.	9000–AN87
246 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–007, Update of Historically Underutilized Business Zone Program.	9000–AN90
247 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–008, Small Business Program Amendments .....	9000–AN91
248 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–009, Prohibition on Contracting With Entities Using Certain Telecommunications and Video Surveillance Services or Equipment.	9000–AN92
249 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–010, Efficient Federal Operations .....	9000–AN94
250 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–013, Inflation Adjustment of Acquisition—Related Thresholds.	9000–AN96
251 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–015, Improving Consistency Between Procurement & Non-Procurement Procedures on Suspension and Debarment.	9000–AN98
252 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–016, Maximizing Use of American-Made Goods, Products and Materials.	9000–AN99
253 .....	Federal Acquisition Regulation (FAR); FAR Case 2020–005, Explanations to Unsuccessful Offerors on Certain Orders Under Task and Delivery Order Contracts.	9000–AO08
254 .....	Federal Acquisition Regulation (FAR); FAR Case 2020–007, Accelerated Payments Applicable to Contracts With Certain Small Business Concerns.	9000–AO10
255 .....	Federal Acquisition Regulation (FAR); FAR Case 2020–008, Prohibition on Criminal History Inquiries by Contractors Prior to Conditional Offer.	9000–AO11
256 .....	Federal Acquisition Regulation (FAR); FAR Case 2020–010, Small Business Innovation Research and Technology Transfer Programs.	9000–AO12



## DOD/GSA/NASA (FAR)—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
257 .....	Federal Acquisition Regulation (FAR); FAR Case 2014–002; Set-Asides Under Multiple Award Contracts	9000–AM93
258 .....	Federal Acquisition Regulation: FAR Case 2016–005; Effective Communication Between Government and Industry.	9000–AN29
259 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–005, Whistleblower Protection for Contractor Employees.	9000–AN32
260 .....	Federal Acquisition Regulation; FAR Case 2016–002, Applicability of Small Business Regulations Outside the United States.	9000–AN34
261 .....	Federal Acquisition Regulation (FAR); FAR Case 2016–011, Revision of Limitations on Subcontracting ....	9000–AN35
262 .....	Federal Acquisition Regulation (FAR); FAR Case 2016–013, Tax on Certain Foreign Procurement .....	9000–AN38
263 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–003; Individual Sureties .....	9000–AN39
264 .....	Federal Acquisition Regulations (FAR); FAR Case 2015–002, Requirements for DD Form 254, Contract Security Classification Specification.	9000–AN40
265 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–010, Evaluation Factors for Multiple-Award Contracts.	9000–AN54
266 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–004; Increased Micro-Purchase and Simplified Acquisition Thresholds.	9000–AN65
267 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–005, Modifications to Cost or Pricing Data and Reporting Requirements.	9000–AN69
268 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–016, Lowest Price Technically Acceptable Source Selection Process.	9000–AN75
269 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–021, Reserve Officer Training Corps and Military Recruiting on Campus.	9000–AN79
270 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–022; Orders Issued Via Fax or Electronic Commerce.	9000–AN80
271 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–023, Taxes—Foreign Contracts in Afghanistan .....	9000–AN81
272 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–017—Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.	9000–AN83
273 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–002, Recreational Services on Federal Lands .....	9000–AN85
274 .....	Federal Acquisition Regulation (FAR); FAR Case 2020–004, Application of the MPT to Certain Task and Delivery Orders.	9000–AO04
275 .....	Federal Acquisition Regulation (FAR); FAR Case 2020–006, Documentation of Market Research .....	9000–AO09
276 .....	Federal Acquisition Regulation (FAR); FAR Case 2020–011, Implementation of Issued Exclusion and Removal Orders.	9000–AO13

## DOD/GSA/NASA (FAR)—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
277 .....	Federal Acquisition Regulation (FAR); FAR Case 2013–002; Reporting of Nonconforming Items to the Government-Industry Data Exchange Program.	9000–AM58
278 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–019, Review of Commercial Clause Requirements and Flowdown.	9000–AN77
279 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–005, Update to Contract Performance Assessment Reporting System (CPARS).	9000–AN88

**DEPARTMENT OF DEFENSE/  
GENERAL SERVICES  
ADMINISTRATION/NATIONAL  
AERONAUTICS AND SPACE  
ADMINISTRATION (FAR)**

## Proposed Rule Stage

**229. Far Acquisition Regulation (FAR);  
FAR Case 2015–038, Reverse Auction  
Guidance**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement policies addressing the effective use of reverse auctions. Reverse auctions involve offerors lowering their pricing over multiple

rounds of bidding in order to win Federal contracts. This change incorporates guidance from the Office of Federal Procurement Policy (OFPP) memorandum, “Effective Use of Reverse Auctions,” which was issued in response to recommendations from the GAO report, *Reverse Auctions: Guidance is Needed to Maximize Competition and Achieve Cost Savings* (GAO–14–108). Reverse auctions are one tool used by Federal agencies to increase competition and reduce the cost of certain items. Reverse auctions differ from traditional auctions in that sellers compete against one another to provide the lowest price or highest-value offer to a buyer. This change to the FAR will include guidance that will standardize agencies’ use of reverse

auctions to help agencies maximize competition and savings when using reverse auctions.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/00/20	
NPRM Comment Period End.	10/00/20	

*Regulatory Flexibility Analysis  
Required:* Yes.

*Agency Contact:* Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 501–1448, *Email:* [curtis.glover@gsa.gov](mailto:curtis.glover@gsa.gov).

*RIN:* 9000–AN31

**230. Federal Acquisition Regulation (FAR); FAR Case 2017–014, Use of Acquisition 360 To Encourage Vendor Feedback***E.O. 13771 Designation:* Other.*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to address the solicitation of contractor feedback on both contract formation and contract administration activities. Agencies would consider this feedback, as appropriate, to improve the efficiency and effectiveness of their acquisition activities. The rule would create FAR policy to encourage regular feedback in accordance with agency practice (both for contract formation and administration activities) and a standard FAR solicitation provision to support a sustainable model for broadened use of the Acquisition 360 survey to elicit feedback on the pre-award and debriefing processes in a consistent and standardized manner. Agencies would be able to use the solicitation provision to notify interested sources that a procurement is part of the Acquisition 360 survey and encourage stakeholders to voluntarily provide feedback on their experiences of the pre-award process.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	07/23/18	83 FR 34820
ANPRM Comment Period End.	09/21/18	
NPRM .....	07/00/20	
NPRM Comment Period End.	09/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 501–1448, *Email:* [curtis.glover@gsa.gov](mailto:curtis.glover@gsa.gov).

*RIN:* 9000–AN43**231. Federal Acquisition Regulation (FAR); FAR Case 2017–013, Breaches of Personally Identifiable Information***E.O. 13771 Designation:* Other.*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to create and implement appropriate contract clauses and regulatory coverage to address contractor requirements for a breach response consistent with the requirements. This FAR change will implement the requirements outlined in the Office of Management and Budget

(OMB) Memorandum, M–17–12, “Preparing for and Responding to a Breach of Personally Identifiable Information,” section V part B .

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/00/20	
NPRM Comment Period End.	09/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 550–0935, *Email:* [camara.francis@gsa.gov](mailto:camara.francis@gsa.gov).

*RIN:* 9000–AN44**232. Federal Acquisition Regulation (FAR); FAR Case 2017–011, Section 508-Based Standards in Information and Communication Technology***E.O. 13771 Designation:* Other.*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to incorporate recent revisions and updates to accessibility standards issued by the U.S. Access Board pursuant to section 508 of the Rehabilitation Act of 1973. This FAR change incorporates the U.S. Access Board’s final rule, “Information and Communication Technology (ICT) Standards and Guidelines,” which published on January 18, 2017. This rule updates the FAR to ensure that the updated accessibility standards are appropriately considered in Federal ICT acquisitions.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/31/20	85 FR 17831
Correction .....	04/16/20	85 FR 21139
NPRM Comment Period End.	06/01/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 550–0935, *Email:* [camara.francis@gsa.gov](mailto:camara.francis@gsa.gov).

*RIN:* 9000–AN46**233. Federal Acquisition Regulation (FAR); FAR Case 2017–016, Controlled Unclassified Information (CUI)***E.O. 13771 Designation:* Other.*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal

Acquisition Regulation (FAR) to implement the National Archives and Records Administration (NARA) Controlled Unclassified Information (CUI) program of Executive Order 13556 of November 4, 2010. As the executive agent designated to oversee the Governmentwide CUI program, NARA issued implementing regulations in late 2016 designed to address Federal agency policies for designating, safeguarding, disseminating, marking, decontrolling, and disposing of CUI. The NARA rule, which is codified at 32 CFR 2002, affects contractors that handle, possess, use, share, or receive CUI. This FAR rule helps to ensure uniform implementation of the requirements of the CUI program in contracts across Government agencies.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/00/20	
NPRM Comment Period End.	12/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 550–0935, *Email:* [camara.francis@gsa.gov](mailto:camara.francis@gsa.gov).

*RIN:* 9000–AN56**234. Federal Acquisition Regulation (FAR); FAR Case 2017–018, Violation of Arms Control Treaties or Agreements With the United States***E.O. 13771 Designation:* Other.*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a proposed rule to address a public comment on the interim rule issued to amend the Federal Acquisition Regulation (FAR) to implement section 1290(c)(3) of the National Defense Authorization Act (NDAA) for FY 2017, which requires an offeror or any of its subsidiaries to certify that it does not engage in any activity that contributed to or is a significant factor in the determination that a country is not in full compliance with its obligations undertaken in all arms control, nonproliferation, and disarmament agreements or commitments in which the United States is a participating state.

*Timetable:*

Action	Date	FR Cite
Interim Final Rule	06/15/18	83 FR 28145
Interim Final Rule Comment Period End.	08/14/18	
NPRM .....	09/00/20	

Action	Date	FR Cite
NPRM Comment Period End.	11/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208–4949, *Email:* michaelo.jackson@gsa.gov.

*RIN:* 9000–AN57

### 235. Federal Regulation Acquisition (FAR); FAR Case 2017–019, Policy on Joint Ventures

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration (SBA), Small Business Mentor Protégé Programs, published on July 25, 2016 (81 FR 48557), regarding joint ventures and to clarify policy on 8(a) joint ventures. The regulatory changes provide industry with a new way to compete for small business or socioeconomic set-asides using a joint venture made up of a mentor and a protégé. The 8(a) joint venture clarification prevents confusion on an 8(a) joint venture's eligibility to compete for an 8(a) competitive procurement.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	06/05/20 08/04/20	85 FR 34561

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Malissa Jones, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605–2815, *Email:* malissa.jones@gsa.gov.

*RIN:* 9000–AN59

### 236. Federal Acquisition Regulation (FAR); FAR Case 2018–002, Protecting Life in Global Health Assistance

*E.O. 13771 Designation:* Regulatory. *Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Presidential Memorandum, “The Mexico City Policy,” issued on January 13, 2017, in accordance with the Department of State’s implementation plan dated May 9, 2017.

This rule would extend requirements of the memorandum and plans to new funding agreements for global health assistance furnished by all Federal departments or agencies. This expanded policy will cover global health assistance to include funding for international health programs, such as those for HIV/AIDS, maternal and child health, malaria, global health security, and certain family planning and reproductive health.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	08/00/20 10/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* FAR Policy, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969–4075, *Email:* farpolicy@gsa.gov.

*RIN:* 9000–AN62

### 237. Federal Acquisition Regulation (FAR); FAR Case 2018–006; Definition of Subcontract

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 820 of the National Defense Authorization Act (NDAA) for FY 2018. Section 820 amends 41 U.S.C. 1906(c)(1) to change the definition of “subcontract” for the procurement of commercial items to exclude agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Federal Government and other parties and are not identifiable to any particular contract.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	08/00/20 10/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208–4949, *Email:* michaelo.jackson@gsa.gov.

*RIN:* 9000–AN66

### 238. Federal Acquisition Regulation (FAR); FAR Case 2018–012, Rights to Federally Funded Inventions and Licensing of Government-Owned Inventions

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the FAR to implement the changes to 37 CFR parts 401 and 404, “Rights to Federally Funded Inventions and Licensing of Government-Owned Inventions,” dated May 14, 2018. The changes reduce regulatory burdens, provide greater clarity to large businesses by codifying the applicability of Bayh-Dole as directed in Executive Order 12591, and provide greater clarity to all Federal funding recipients by updating regulatory provisions to align with provisions of the Leahy-Smith America Invents Act in terms of definitions and timeframes.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	10/00/20 12/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208–4949, *Email:* michaelo.jackson@gsa.gov.

*RIN:* 9000–AN71

### 239. Federal Acquisition Regulation (FAR); FAR Case 2018–013, Exemption of Commercial and Cots Item Contracts From Certain Laws and Regulations

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch.137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement paragraph (a) of section 839 of the John S. McCain National Defense Authorization Act for fiscal year 2019. Paragraph (a) requires the FAR Council to review each past determination made not to exempt contracts and subcontracts for commercial products, commercial services, and commercially available off-the-shelf (COTS) items from certain laws when these contracts would otherwise have been exempt under 41 U.S.C. 1906(d) or 41 U.S.C. 1907(b). The FAR Council or the Administrator for Federal Procurement Policy has to determine whether there still exists specific reason not to provide exemptions from certain laws. If no

determination is made to continue to exempt commercial contracts and subcontracts from certain laws, paragraph (a) requires that revisions to the FAR be proposed to reflect exemptions from those laws. Paragraph (a) requires these revisions to be proposed within one year of the date of enactment of section 839.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	09/00/20 11/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605-2868, *Email:* mahruba.uddowla@gsa.gov.

*RIN:* 9000-AN72

**240. Federal Acquisition Regulation (FAR); FAR Case 2018-014, Increasing Task-Order Level Competition**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 876 of the John S. McCain National Defense Authorization Act for fiscal year 2019, which would provide civilian agencies with an exception to the existing statutory requirement to include price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals for all contracts. The exception would only apply to IDIQ contracts and to Federal Supply Schedule contracts for services that are priced at an hourly rate. Furthermore, the exception would only apply in those instances where the Government intends to make a contract award to all qualifying offerors, thus affording maximum opportunity for effective competition at the task order level. An offeror would be qualified only if it is a responsible source and submits a proposal that conforms to the requirements of the solicitation, meets any technical requirements, and is otherwise eligible for award.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	09/00/20 11/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 501-1448, *Email:* curtis.glover@gsa.gov.

*RIN:* 9000-AN73

**241. Federal Acquisition Regulation (FAR); FAR Case 2018-018, Revision of Definition of "Commercial Item"**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to separate the commercial item definition into definitions of commercial product and commercial service. Section 836 of the National Defense Authorization Act (NDAA) for fiscal year (FY) 2019 (Pub. L. 115-232) set the effective date of the new definitions to January 1, 2020. This is consistent with the recommendations by the independent panel created by section 809 of the NDAA for FY 2016 (Pub. L. 11492). This case implements amendment to 41 U.S.C. 103.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	06/00/20 08/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7207, *Email:* zenaida.delgado@gsa.gov.

*RIN:* 9000-AN76

**242. Federal Acquisition Regulation (FAR); FAR Case 2018-020, Construction Contract Administration**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 855 of the NDAA for FY 2019 (Pub. L. 115-232). Section 855 requires, for solicitations for construction contracts anticipated to be awarded to a small business, notification to prospective offerors regarding agency policies or practices in complying with FAR requirements relating to the timely definitization of requests for equitable adjustment and agency past performance in definitizing such requests.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	04/01/20 06/01/20	85 FR 18181

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 550-0935, *Email:* camara.francis@gsa.gov.

*RIN:* 9000-AN78

**243. Federal Acquisition Regulation (FAR); FAR Case 2019-001, Analysis for Equipment Acquisitions**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the FAR by implementing section 555 of the Federal Aviation Administration (FAA) Reauthorization Act for FY 2018 (Pub. L. 115-254), which requires equipment to be acquired using the method of acquisition most advantageous to the Government based on a case-by-case analysis of costs and other factors. Section 555 requires the methods of acquisition to be compared in the analysis to include, at a minimum: (1) Purchase; (2) long-term lease or rental; (3) short-term lease or rental; (4) interagency acquisition; or, (5) acquisition agreements with a State or local government. Section 555 exempts certain acquisitions from this required analysis.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	06/00/20 07/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208-4949, *Email:* michaelo.jackson@gsa.gov.

*RIN:* 9000-AN84

**244. Federal Acquisition Regulation (FAR); FAR Case 2019-003, Substantial Bundling and Consolidation**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 863 of the National Defense Authorization Acts (NDAA) for FY 2016 and the Small Business

Administration (SBA) implementing regulations requiring publication of a notice of substantial bundling and a notice of consolidation of contract requirements.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/27/20	85 FR 23299
NPRM Comment Period End.	06/26/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Malissa Jones, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605–2815, *Email:* malissa.jones@gsa.gov.

*RIN:* 9000–AN86

**245. Federal Acquisition Regulation (FAR); FAR Case 2019–004, Good Faith in Small Business Subcontracting**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 1821 of the National Defense Authorization Act (NDAA) for FY 2017 and the Small Business Administration regulatory changes relating to small business subcontracting plans. Section 1821 requires examples of activities that would be considered a failure to make a good faith effort to comply with small business subcontracting plan requirements.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/03/20	85 FR 34155
NPRM Comment Period End.	08/03/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Malissa Jones, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605–2815, *Email:* malissa.jones@gsa.gov.

*RIN:* 9000–AN87

**246. Federal Acquisition Regulation (FAR); FAR Case 2019–007, Update of Historically Underutilized Business Zone Program**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to

implement regulatory changes issued in a final rule on November 26, 2019 by the Small Business Administration regarding the Historically Underutilized Business Zone (HUBZone) Program. The regulatory changes are intended to reduce the regulatory burden associated with the HUBZone Program.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/00/20	
NPRM Comment Period End.	09/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Malissa Jones, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605–2815, *Email:* malissa.jones@gsa.gov.

*RIN:* 9000–AN90

**247. Federal Acquisition Regulation (FAR); FAR Case 2019–008, Small Business Program Amendments**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes proposed by the Small Business Administration regarding small business programs. The proposed regulatory changes include the timing of the determination of size status for multiple-award contracts for which price is not evaluated at the contract level; the grounds for size-status protests; and the grounds for socioeconomic status protests.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/00/20	
NPRM Comment Period End.	01/00/21	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Malissa Jones, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605–2815, *Email:* malissa.jones@gsa.gov.

*RIN:* 9000–AN91

**248. Federal Acquisition Regulation (FAR); FAR Case 2019–009, Prohibition on Contracting With Entities Using Certain Telecommunications and Video Surveillance Services or Equipment**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal

Acquisition Regulation (FAR) to implement paragraph (a)(1)(B) of section 889 of the National Defense Authorization Act (NDAA) for FY 19 (Pub. L. 115–232). Beginning two years from the enacted date, paragraph (a)(1)(B) of section 889 prohibits the Government from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment and services from Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Technology Company, or Dahua Technology Company, to include any subsidiaries or affiliates. This FAR rule is needed to protect U.S. networks against cyber activities conducted through Chinese Government-supported telecommunications equipment and services. Paragraph (a)(1)(A) of section 889 is being implemented separately through FAR Case 2018–017.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	
NPRM Comment Period End.	08/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Kevin Funk, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 357–5805, *Email:* kevin.funk@gsa.gov.

*RIN:* 9000–AN92

**249. Federal Acquisition Regulation (FAR); FAR Case 2019–010, Efficient Federal Operations**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Executive Order 13834, “Efficient Federal Operations.” Executive Order 13834 directs Federal agencies to comply with statutory requirements related to energy and environmental performance in a manner that increases efficiency, maximizes performance, eliminates unnecessary use of resources, and protects the environment. This rule promotes the efficient acquisition of sustainable products, services, and construction methods in order to reduce energy and water consumption, reliance on natural resources, and enhance pollution prevention, within the Federal Government.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	06/00/20 08/00/20	

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* Kevin Funk,  
Procurement Analyst, DOD/GSA/NASA  
(FAR), 1800 F Street NW, Washington,  
DC 20405, *Phone:* 202 357–5805, *Email:*  
kevin.funk@gsa.gov.  
*RIN:* 9000–AN94

**250. Federal Acquisition Regulation  
(FAR); FAR Case 2019–013, Inflation  
Adjustment of Acquisition-Related  
Thresholds**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 40 U.S.C. 121(c) ; 10  
U.S.C. ch. 137; 51 U.S.C. 20113  
*Abstract:* DoD, GSA, and NASA are  
issuing a proposed rule amending the  
Federal Acquisition Regulation (FAR) to  
implement the inflation adjustment of  
acquisition-related dollar thresholds. A  
statute (41 U.S.C. 1908) requires an  
adjustment every 5 years of acquisition-  
related thresholds for inflation using the  
Consumer Price Index for all urban  
consumers, except for the Construction  
Wage Rate Requirements statute  
(formerly Davis-Bacon Act), Service  
Contract Labor Standards statute, and  
trade agreements thresholds.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	06/00/20 08/00/20	

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* Michael O. Jackson,  
Procurement Analyst, DOD/GSA/NASA  
(FAR), 1800 F Street NW, Washington,  
DC 20405, *Phone:* 202 208–4949, *Email:*  
michael.o.jackson@gsa.gov.  
*RIN:* 9000–AN96

**251. Federal Acquisition Regulation  
(FAR); FAR Case 2019–015, Improving  
Consistency Between Procurement &  
Non-Procurement Procedures on  
Suspension and Debarment**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 40 U.S.C. 121(c); 10  
U.S.C. ch. 137; 51 U.S.C. 20113  
*Abstract:* DoD, GSA, and NASA are  
proposing to amend the Federal  
Acquisition Regulation (FAR) to bring  
the FAR and the Non-procurement  
Common Rule (NCR) procedures on  
suspension and debarment into closer  
alignment. The FAR covers procurement  
matters and the NCR covers other  
transactions, such as grants, cooperative

agreements, contracts of assistance,  
loans and loan guarantees.

The Government uses suspension and  
debarment procedures to exercise  
business judgment. These procedures  
give Federal officials a discretionary  
means to exclude parties from  
participation in certain transactions,  
while affording those parties due  
process.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	08/00/20 10/00/20	

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* Curtis E. Glover Sr.,  
Procurement Analyst, DOD/GSA/NASA  
(FAR), 1800 F Street NW, Washington,  
DC 20405, *Phone:* 202 501–1448, *Email:*  
curtis.glover@gsa.gov.  
*RIN:* 9000–AN98

**252. Federal Acquisition Regulation  
(FAR); FAR Case 2019–016, Maximizing  
Use of American-Made Goods, Products  
and Materials**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 40 U.S.C. 121(c); 10  
U.S.C. ch. 137; 51 U.S.C. 20113  
*Abstract:* DoD, GSA, and NASA are  
proposing to amend the Federal  
Acquisition Regulation (FAR) to  
implement Executive Order (E.O.)  
13881, Maximizing Use of American-  
Made Goods, Products, and Materials,  
which would provide that materials  
shall be considered to be of foreign  
origin if: (A) For iron and steel end  
products, the cost of foreign iron and  
steel used in such iron and steel end  
products constitutes 5 percent or more  
of the cost of all the products used in  
such iron and steel end products; or (B)  
for all other end products, the cost of  
the foreign products used in such end  
products constitutes 45 percent or more  
of the cost of all the components. In  
addition, the E.O. provides that in  
determining price reasonableness or  
public interest, the evaluation factors of  
20 percent (for other than small  
businesses), or 30 percent (for small  
businesses) shall be applied to offers of  
materials of foreign origin.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	06/00/20 08/00/20	

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* Zenaida Delgado,  
Procurement Analyst, DOD/GSA/NASA  
(FAR), 1800 F Street NW, Washington,  
DC 20405, *Phone:* 202 969–7207, *Email:*  
zenaida.delgado@gsa.gov.  
*RIN:* 9000–AN99

**253. • Federal Acquisition Regulation  
(FAR); FAR Case 2020–005,  
Explanations to Unsuccessful Offerors  
on Certain Orders Under Task and  
Delivery Order Contracts**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 40 U.S.C. 121(c); 10  
U.S.C. ch. 137; 51 U.S.C. 20113  
*Abstract:* DoD, GSA, and NASA are  
proposing to amend the Federal  
Acquisition Regulation (FAR) to  
implement section 874 of the NDAA for  
FY 2020, which requires, when  
awarding a task or delivery order in an  
amount greater than the simplified  
acquisition threshold, but not greater  
than \$5.5 million, contracting officers,  
upon written request from an  
unsuccessful offeror, to provide a brief  
explanation as to why the offeror was  
unsuccessful, including the rationale for  
award and an evaluation of the  
significant weak or deficient factors in  
the offeror's offer.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	09/00/20 11/00/20	

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* Camara Francis,  
Procurement Analyst, DOD/GSA/NASA  
(FAR), 1800 F Street NW, Washington,  
DC 20405, *Phone:* 202 550–0935, *Email:*  
camara.francis@gsa.gov.  
*RIN:* 9000–AO08

**254. • Federal Acquisition Regulation  
(FAR); FAR Case 2020–007, Accelerated  
Payments Applicable to Contracts With  
Certain Small Business Concerns**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 40 U.S.C. 121(c); 10  
U.S.C. ch. 137; 51 U.S.C. 20113  
*Abstract:* DoD, GSA, and NASA are  
proposing to amend the Federal  
Acquisition Regulation (FAR) to  
establish an accelerated payment date  
for small business contractors, to the  
fullest extent permitted by law, with a  
goal of 15 days after receipt of a proper  
invoice, if a specific payment date is not  
established by contract. For contractors  
that subcontract with small businesses,  
the proposed rule, to the fullest extent  
permitted by law, establishes an  
accelerated payment date, with a goal of  
15 days after receipt of a proper invoice,

if: (1) A specific payment date is not established by contract, and (2) the contractor agrees to make accelerated payments to the subcontractor without any further consideration from, or fees charged to, the subcontractor. This change implements section 873 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116–92). Section 873 amends 31 U.S.C. 3903(a).

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/00/20	
NPRM Comment Period End.	11/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 202 969–7207, Email: zenaida.delgado@gsa.gov.

RIN: 9000–AO10

**255. • Federal Acquisition Regulation (FAR); FAR Case 2020–008, Prohibition on Criminal History Inquiries by Contractors Prior to Conditional Offer**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 1123 of the NDAA for FY 2020 (Pub. L. 116–92) for the prohibition on criminal history inquiries by contractors prior to conditional offer to an individual or sole proprietor.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/00/20	
NPRM Comment Period End.	11/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 202 501–1448, Email: curtis.glover@gsa.gov.

RIN: 9000–AO11

**256. • Federal Acquisition Regulation (FAR); FAR Case 2020–010, Small Business Innovation Research and Technology Transfer Programs**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to

implement changes to the U.S. Small Business Administration (SBA) Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Policy Directive issued (May 2, 2019). The proposed changes include updating FAR 27 to add reference to the STTR program, revise: Definitions, allocation of rights, protection period, SBIR/STTR rights notice, data rights marking provisions, and add language to FAR 6.302–5(b) to acknowledge the unique competition requirements for SBIR/STTR Phase III contracts permitted by the Small Business Act.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/00/20	
NPRM Comment Period End.	12/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* FAR Policy, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 202 969–4075, Email: farpolicy@gsa.gov.

RIN: 9000–AO12

**DEPARTMENT OF DEFENSE/GENERAL SERVICES  
ADMINISTRATION/NATIONAL  
AERONAUTICS AND SPACE  
ADMINISTRATION (FAR)**

Final Rule Stage

**257. Federal Acquisition Regulation (FAR); FAR Case 2014–002; Set-Asides Under Multiple Award Contracts**

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration, which provide Governmentwide policy for partial set-asides and reserves and for set-asides of orders for small business concerns under multiple-award contracts.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/06/16	81 FR 88072
NPRM Comment Period End.	02/06/17	
Final Rule .....	02/27/20	85 FR 11746
Final Rule Effective.	03/30/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 703 605–2868, Email: mahruba.uddowla@gsa.gov.

RIN: 9000–AM93

**258. Federal Acquisition Regulation: FAR Case 2016–005; Effective Communication Between Government and Industry**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement section 887 of the NDAA for FY 2016 (Pub. L. 114–92). This law provides that Government acquisition personnel are permitted and encouraged to engage in responsible and constructive exchanges with industry. This change will permit and encourage Government acquisition personnel to engage in responsible and constructive exchanges with industry as part of market research as long as those exchanges are consistent with existing laws and regulations and promote a fair competitive environment.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/29/16	81 FR 85914
NPRM Comment Period End.	03/02/17	
Final Rule .....	07/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 202 208–4949, Email: michael.o.jackson@gsa.gov.

RIN: 9000–AN29

**259. Federal Acquisition Regulation (FAR); FAR Case 2017–005, Whistleblower Protection for Contractor Employees**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement 41 U.S.C. 4712, “Enhancement of Contractor Protection From Reprisal for Disclosure of Certain Information,” and makes the pilot program permanent. The pilot was enacted on January 2, 2013, by section 828 of the National Defense Authorization Act (NDAA) for fiscal year (FY) 2013. The rule clarifies that



contractors and subcontractors are prohibited from discharging, demoting, or otherwise discriminating against an employee as a reprisal for disclosing to any of the entities such as agency Inspector Generals and Congress information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract; a gross waste of Federal funds; an abuse of authority relating to a Federal contract; a substantial and specific danger to public health or safety; or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract.) This rule enhances whistleblower protections for contractor employees by making permanent the protection for disclosure of the aforementioned information, and ensuring that the prohibition on reimbursement for legal fees accrued in defense against reprisal claims applies to both contractors and subcontractors.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/26/18	83 FR 66223
NPRM Comment Period End.	02/25/19	
Final Rule .....	09/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 501-1448, *Email:* [curtis.glover@gsa.gov](mailto:curtis.glover@gsa.gov).

*RIN:* 9000-AN32

**260. Federal Acquisition Regulation; FAR Case 2016-002, Applicability of Small Business Regulations Outside the United States**

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) consistent with SBA's regulation at 13 CFR 125.2 as finalized in its rule "Acquisition Process: Task and Delivery Order Contracts, Bundling, Consolidation" issued on October 2, 2013, to clarify that overseas contracting is not excluded from agency responsibilities to foster small business participation.

In its final rule, SBA has clarified that, as a general matter, its small business contracting regulations apply regardless of the place of performance. In light of these changes, there is a need to amend the FAR, both to bring its coverage into alignment with SBA's

regulation, and to give agencies the tools they need, especially the ability to use set-asides to maximize opportunities for small businesses overseas.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/12/19	84 FR 39793
NPRM Comment Period End.	10/11/19	
Final Rule .....	09/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605-2868, *Email:* [mahruba.uddowla@gsa.gov](mailto:mahruba.uddowla@gsa.gov).

*RIN:* 9000-AN34

**261. Federal Acquisition Regulation (FAR); FAR Case 2016-011, Revision of Limitations on Subcontracting**

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to revise and standardize the limitations on subcontracting, including the nonmanufacturer rule, that apply to small business concerns under FAR part 19 procurements. This rule incorporates The Small Business Administration's (SBA) final rule that implemented the statutory requirements of section 1651 of the National Defense Authorization Act (NDAA) for fiscal year 2013. This action is necessary to meet the Congressional intent of clarifying the limitations on subcontracting with which small businesses must comply, as well as the ways in which they can comply. The rule will benefit both small businesses and Federal agencies. The rule will allow small businesses to take advantage of subcontracts with similarly situated entities. As a result, these small businesses will be able to compete for larger contracts, which would positively affect their potential for growth as well as that of their potential subcontractors.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/04/18	83 FR 62540
NPRM Comment Period End.	02/04/19	
Final Rule .....	07/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Kevin Funk, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 357-5805, *Email:* [kevin.funk@gsa.gov](mailto:kevin.funk@gsa.gov).

*RIN:* 9000-AN35

**262. Federal Acquisition Regulation (FAR); FAR Case 2016-013, Tax on Certain Foreign Procurement**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 37; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement a final rule issued by the Department of the Treasury that implements section 301 of the James Zadroga 9/11 Health and Compensation Act of 2010, Public Law 111347. This section imposes on any foreign person that receives a specified Federal procurement payment a tax equal to two percent of the amount of such payment. This rule applies to foreign persons that are awarded Federal Government contracts to provide goods or services.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/20/19	84 FR 49498
NPRM Comment Period End.	11/19/19	
Final Rule .....	05/06/20	85 FR 27098
Final Rule Effective.	06/05/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7207, *Email:* [zenaida.delgado@gsa.gov](mailto:zenaida.delgado@gsa.gov).

*RIN:* 9000-AN38

**263. Federal Acquisition Regulation (FAR); FAR Case 2017-003; Individual Sureties**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to change the kinds of assets that individual sureties must use as security for their individual surety bonds. This change implements section 874 of the National Defense Authorization Act (NDAA) for FY 2016 (Pub. L. 114-92), codified at 31 U.S.C. 9310, Individual Sureties. Individual sureties will no longer be able to pledge real property, corporate stocks, corporate bonds, or irrevocable letters of credit. The requirements of 31 U.S.C. 9310 are intended to strengthen the assets pledged by individual sureties, thereby mitigating risk to the Government.

*Timetable:*



Action	Date	FR Cite
NPRM .....	02/12/20	85 FR 7910
NPRM Comment Period End.	04/13/20	
Final Rule .....	12/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7207, *Email:* zenaida.delgado@gsa.gov.

*RIN:* 9000-AN39

**264. Federal Acquisition Regulations (FAR); FAR Case 2015-002, Requirements for DD Form 254, Contract Security Classification Specification**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to require the use of Department of Defense (DoD) Wide Area Workflow (WAWF) for the electronic submission of the DD Form 254, "Contract Security Classification Specification." This form is used to convey security requirements regarding classified information to contractors and subcontractors and must be submitted to the Defense Security Services (DSS) when contractors or subcontractors require access to classified information under contracts awarded by agencies that are covered by the National Industrial Security Program (NISIP). By changing the submittal process of the form from a manual process to an automated one, the Government will reduce the cost of maintaining the forms, while also providing a centralized repository for classified contract security requirements and supporting data.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/12/19	84 FR 33201
NPRM Comment Period End.	09/10/19	
Final Rule .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 501-1448, *Email:* curtis.glover@gsa.gov.

*RIN:* 9000-AN40

**265. Federal Acquisition Regulation (FAR); FAR Case 2017-010, Evaluation Factors for Multiple-Award Contracts**

*E.O. 13771 Designation:* Derogatory.  
*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement section 825 of the National Defense Authorization Act (NDAA) for FY 17 (Pub. L. 114-328). Section 825 amends 10 U.S.C. 2305(a)(3) to change the requirement regarding the consideration of cost or price to the Government as a factor in the evaluation of proposals for certain multiple-award task order contracts awarded by DoD, NASA, or the Coast Guard. At the Government's discretion, solicitations for multiple-award contracts, which intend to award the same or similar services to each qualifying offeror, do not require price or cost as an evaluation factor for the base contract award. This rule will streamline the award of contracts for DoD, NASA, and the Coast Guard because they will not be required to consider cost or price in the evaluation of the award decision. Relieving the requirement to account for cost or price when evaluating proposals for these types of contracts, which feature competitive orders, will enable procurement officials to focus their energy on establishing and evaluating the non-price factors that will result in more meaningful distinctions among offerors.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/24/18	83 FR 48271
Correction .....	10/23/18	83 FR 53421
NPRM Comment Period End.	11/23/18	
Final Rule .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208-4949, *Email:* michaelo.jackson@gsa.gov.

*RIN:* 9000-AN54

**266. Federal Acquisition Regulation (FAR); FAR Case 2018-004; Increased Micro-Purchase and Simplified Acquisition Thresholds**

*E.O. 13771 Designation:* Derogatory.  
*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the FAR to implement sections 805, 806, and 1702(a) of the National Defense

Authorization Act (NDAA) for FY 2018. Section 805 increases the micro-purchase threshold (MPT) to \$10,000 and limits the use of convenience checks to not more than one half of the MPT amount (*i.e.*, \$5,000). Section 806 increases the simplified acquisition threshold (SAT) to \$250,000. Section 1702(a) amends section 15(j)(1) of the Small Business Act (15 U.S.C. 644(j)(1)) to replace specific dollar thresholds with the terms "micro-purchase threshold" and "simplified acquisition threshold."

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/02/19	84 FR 52420
NPRM Comment Period End.	12/02/19	
Final Rule .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208-4949, *Email:* michaelo.jackson@gsa.gov.

*RIN:* 9000-AN65

**267. Federal Acquisition Regulation (FAR); FAR Case 2018-005, Modifications to Cost or Pricing Data and Reporting Requirements**

*E.O. 13771 Designation:* Derogatory.  
*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to increase the Truth in Negotiation Act (TINA) threshold to \$2 million and require other than certified cost or pricing data. The rule reduces the burden on contractors because they would not be required to certify their cost or pricing data between \$750,000 and \$2 million. This change implements section 811 of the National Defense Authorization Act (NDAA) for FY 2018. Section 811 modifies 10 U.S.C. 2306a and 41 U.S.C. 3502.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/02/19	84 FR 52428
NPRM Comment Period End.	12/02/19	
Final Rule .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7207, *Email:* zenaida.delgado@gsa.gov.

RIN: 9000-AN69

**268. Federal Acquisition Regulation (FAR); FAR Case 2018-016, Lowest Price Technically Acceptable Source Selection Process**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement section 880 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 to avoid using lowest price technically acceptable source selection criteria in circumstances that would deny the Government the benefits of cost and technical tradeoffs in the source selection process.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/02/19	84 FR 52425
NPRM Comment Period End.	12/02/19	
Final Rule .....	07/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208-4949, *Email:* michael.o.jackson@gsa.gov.

RIN: 9000-AN75

**269. Federal Acquisition Regulation (FAR); FAR Case 2018-021, Reserve Officer Training Corps and Military Recruiting on Campus**

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement the requirements at 10 U.S.C. 983, which prohibits the award of certain Federal contracts or grants to institutions of higher education that prohibit Senior Reserve Officer Training Corps units or military recruiting on campus.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/24/19	84 FR 49974
NPRM Comment Period End.	11/25/19	
Final Rule .....	07/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA

(FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7207, *Email:* zenaida.delgado@gsa.gov.

RIN: 9000-AN79

**270. Federal Acquisition Regulation (FAR); FAR Case 2018-022; Orders Issued via Fax or Electronic Commerce**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) clause 52.216-18, Ordering, to authorize issuance of orders via fax or email and clarify when an order is considered to be issued when utilizing these methods.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/23/19	84 FR 44270
NPRM Comment Period End.	10/22/19	
Final Rule .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 501-1448, *Email:* curtis.glover@gsa.gov.

RIN: 9000-AN80

**271. Federal Acquisition Regulation (FAR); FAR Case 2018-023, Taxes—Foreign Contracts in Afghanistan**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement the provisions on taxes, duties, and fees contained in the Security and Defense Cooperation Agreement (dated 2014) and the North Atlantic Treaty Organization Status of Forces Agreement (dated 2014) with the Islamic Republic of Afghanistan. Both Agreements exempt the United States Government, and its contractors and subcontractors (other than those who are Afghan legal entities or residents), from paying any tax or similar charge assessed on activities associated with contracts performed within Afghanistan. The Agreements also exempt the acquisition, importation, exportation, reexportation, transportation, and use of supplies and services in Afghanistan, by or on behalf of the United States Government, from any taxes, customs, duties, fees, or similar charges in Afghanistan.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/20/19	84 FR 49502
Correction .....	10/15/19	84 FR 55109
NPRM Comment Period End.	11/19/19	
Final Rule .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Kevin Funk, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 357-5805, *Email:* kevin.funk@gsa.gov.

RIN: 9000-AN81

**272. Federal Acquisition Regulation (FAR); FAR Case 2018-017—Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment**

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement section 889 of the National Defense Authorization Act (NDAA) for FY 19 (Pub. L. 115-232). Section 889 prohibits the procurement or use of covered telecommunications equipment and services from Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Technology Company, or Dahua Technology Company, to include any subsidiaries or affiliates. This FAR rule is needed to protect U.S. networks against cyber activities conducted through Chinese Government-supported telecommunications equipment and services.

*Timetable:*

Action	Date	FR Cite
Interim Final Rule	08/13/19	84 FR 40216
Interim Final Rule Comment Period End.	10/15/19	
Interim Final Rule Effective.	12/13/19	84 FR 68314
Interim Final Rule Comment Period End.	12/13/19	
Final Rule .....	02/11/20	
Final Rule .....	09/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* FAR Policy, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-4075, *Email:* farpolicy@gsa.gov.

RIN: 9000-AN83

### 273. Federal Acquisition Regulation (FAR); FAR Case 2019–002, Recreational Services on Federal Lands

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to exempt contracts for seasonal recreational services and seasonal recreational equipment rental on Federal lands from the Executive Order 13658 minimum wage requirements. This rule implements Executive Order 13838 that was issued on May 25, 2018, and associated Department of Labor final rule published on September 26, 2018. In accordance with Executive Order 13838, this proposed rule will not limit Executive Order 13658's coverage of lodging and food services associated with seasonal recreational services, even when seasonal recreational services or seasonal recreational equipment rental are also provided under the same contract.

#### Timetable:

Action	Date	FR Cite
NPRM .....	10/21/19	84 FR 56157
NPRM Comment Period End.	12/20/19	
Final Rule .....	07/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Kevin Funk, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 357–5805, *Email:* kevin.funk@gsa.gov.

*RIN:* 9000–AN85

### 274. • Federal Acquisition Regulation (FAR); FAR Case 2020–004, Application of the MPT to Certain Task and Delivery Orders

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are amending the FAR by implementing section 826 of the NDAA for FY 2020 (Pub. L. 116–92) which increases the threshold for requiring fair opportunity on orders under multiple-award contracts from \$3,500 to the micro-purchase threshold, unless an exception applies. This change applies the word-based threshold to ensure continued alignment with any future changes to the thresholds.

#### Timetable:

Action	Date	FR Cite
Final Rule .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208–4949, *Email:* michael.o.jackson@gsa.gov.

*RIN:* 9000–AO04

### 275. • Federal Acquisition Regulation (FAR); FAR Case 2020–006, Documentation of Market Research

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA opened this case to implement section 818 of the NDAA for FY 2020. Section 818 amends 10 U.S.C. 2377(c) and 41 U.S.C. 3307(d) to require that the head of the agency shall document the results of market research in a manner appropriate to the size and complexity of the acquisition.

#### Timetable:

Action	Date	FR Cite
Final Rule .....	07/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 550–0935, *Email:* camara.francis@gsa.gov.

*RIN:* 9000–AO09

### 276. • Federal Acquisition Regulation (FAR); FAR Case 2020–011, Implementation of Issued Exclusion and Removal Orders

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* This rule will amend the Federal Acquisition Regulation (FAR) to address implementation of issued exclusion and removal orders authorized by Section 202 of the SECURE Technology Act (115 Pub. L. 390), which amends 41 U.S.C. 1323 by creating the Federal Acquisition Security Council (FASC) and authorizing the Secretary of Homeland Security, the Secretary of Defense, and the Director of National Intelligence to issue exclusion and removal orders, upon the recommendation of the FASC. These orders are issued to protect national security by excluding certain covered products, services, or sources from the Federal supply chain.

#### Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/20	
Interim Final Rule Comment Period End.	10/00/20	
Final Rule .....	05/00/21	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 550–0935, *Email:* camara.francis@gsa.gov.

*RIN:* 9000–AO13

### DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

#### Completed Actions

### 277. Federal Acquisition Regulation (FAR); FAR Case 2013–002; Reporting of Nonconforming Items to the Government-Industry Data Exchange Program

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to require contractors and subcontractors to report to the Government-Industry Data Exchange Program certain counterfeit or suspect counterfeit parts and certain major or critical nonconformances.

#### Completed:

Reason	Date	FR Cite
Final Rule .....	11/22/19	84 FR 64680
Final Rule Effective.	12/23/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* FAR Policy, *Phone:* 202 969–4075, *Email:* farpolicy@gsa.gov.

*RIN:* 9000–AM58

### 278. Federal Acquisition Regulation (FAR); FAR Case 2018–019, Review of Commercial Clause Requirements and Flowdown

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* This proposed rule is being withdrawn and merged into FAR Case 2018–013, which is implementing paragraph (a) of section 839 of the John

S. McCain National Defense Authorization Act for fiscal year 2019.  
*Completed:*

Reason	Date	FR Cite
Withdrawn .....	02/10/20	

*Regulatory Flexibility Analysis Required:* Yes.  
*Agency Contact:* Mahruba Uddowla, Phone: 703 605–2868, Email: mahruba.uddowla@gsa.gov.  
*RIN:* 9000–AN77

**279. Federal Acquisition Regulation (FAR); FAR Case 2019–005, Update to Contract Performance Assessment Reporting System (CPARS)**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113  
*Abstract:* DoD, GSA, and NASA issued a final rule amending the Federal Acquisition Regulation (FAR) to implement changes regarding the Past Performance Information Retrieval System (PPIRS). This rule establishes that the Contract Performance Assessment Reporting System (CPARS) is the official system for past performance information.  
Effective January 15, 2019, PPIRS was officially retired to conclude its merger with the CPARS. Data from PPIRS has been merged into CPARS.gov, making CPARS the official system for past performance information. This merge simplifies functions such as creating and editing performance and integrity records, changes to administering users

and running reports, generating performance records, and viewing/managing performance records. Users will now have one location and one account to perform all functionality.

*Completed:*

Reason	Date	FR Cite
Final Rule Effective.	10/10/19	

*Regulatory Flexibility Analysis Required:* Yes.  
*Agency Contact:* Curtis E. Glover, Phone: 202 501–1448, Email: curtis.glover@gsa.gov.  
*RIN:* 9000–AN88

[FR Doc. 2020–16767 Filed 8–25–20; 8:45 am]  
**BILLING CODE 6820–EP–P**



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XXII

Commodity Futures Trading Commission

---

Semiannual Regulatory Agenda

**COMMODITY FUTURES TRADING COMMISSION****17 CFR Ch. I****Regulatory Flexibility Agenda**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The Commodity Futures Trading Commission (“Commission”), in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of rulemakings that the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others on the agenda.

**FOR FURTHER INFORMATION CONTACT:** Christopher J. Kirkpatrick, Secretary of the Commission, (202) 418–5964, [ckirkpatrick@cftc.gov](mailto:ckirkpatrick@cftc.gov), Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:** The Regulatory Flexibility Act (“RFA”), 5 U.S.C. 601, *et seq.*, includes a requirement that each agency publish semiannually in the **Federal Register** a regulatory flexibility agenda. Such agendas are to contain the following elements, as specified in 5 U.S.C. 602(a):

(1) A brief description of the subject area of any rule that the agency expects to propose or promulgate, which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda, the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable about the items listed in the agenda.

Accordingly, the Commission has prepared an agenda of rulemakings that

it presently expects may be considered during the course of the next year. Subject to a determination for each rule, it is possible as a general matter that some of these rules may have some impact on small entities.<sup>1</sup> The Commission notes also that, under the RFA, it is not precluded from considering or acting on a matter not included in the regulatory flexibility agenda, nor is it required to consider or act on any matter that is listed in the agenda. See 5 U.S.C. 602(d).

The Commission’s Spring 2020 regulatory flexibility agenda is included in the Unified Agenda of Federal Regulatory and Deregulatory Actions. The complete Unified Agenda will be available online at [www.reginfo.gov](http://www.reginfo.gov), in a format that offers users enhanced ability to obtain information from the Agenda database.

Issued in Washington, DC, on March 26, 2020, by the Commission.

**Christopher Kirkpatrick,**  
*Secretary of the Commission.*

**COMMODITY FUTURES TRADING COMMISSION—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
280 .....	Regulation Automated Trading .....	3038–AD52

**COMMODITY FUTURES TRADING COMMISSION (CFTC)****Long-Term Actions****280. Regulation Automated Trading**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 7 U.S.C. 1a(23); 7 U.S.C. 6c(a); 7 U.S.C. 7(d); 7 U.S.C. 12(a)(5)

*Abstract:* On November 7, 2016, the Commodity Futures Trading Commission (“Commission”) approved a supplemental notice of proposed rulemaking for Regulation AT (“Supplemental NPRM”). The Supplemental NPRM modifies certain rules proposed in the Commission’s December 2015, notice of proposed rulemaking (NPRM) for Regulation AT. The Supplemental NPRM was published in the **Federal Register** on November 25, 2016, with a 90-day comment period closing on January 24,

2017. The Commission subsequently extended the comment period until May 1, 2017. The NPRM and Supplemental NPRM, through a set of proposed regulations collectively referred to as “Regulation AT,” would require registration of certain market participants that engage in proprietary algorithmic trading; impose pre-trade risk control, testing, and certification requirements on market participants, futures commission merchants, and/or designated contract markets; and set forth preservation and access obligations relating to algorithmic trading source code. The Commission expects that this proposal will be superseded by Electronic Trading Risk Principles, 3038–AE96.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	09/12/13	78 FR 56542

has previously certified, under section 605 of the RFA, 5 U.S.C. 605, that those items will not have a significant economic impact on a substantial number of small entities. For these reasons, the listing of a rule in this regulatory flexibility agenda should not be taken as a determination that the rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. Rather, the

Action	Date	FR Cite
ANPRM Comment Period End.	12/11/13	
ANPRM Comment Period Extended.	01/24/14	79 FR 4104
ANPRM Comment Period Extended End.	02/14/14	
NPRM .....	12/17/15	80 FR 78824
NPRM Comment Period End.	03/16/16	
NPRM Comment Period Re-opened.	06/10/16	81 FR 36484
NPRM Comment Period Re-opened End.	06/24/16	
Supplemental NPRM.	11/25/16	81 FR 85334
Supplemental NPRM Comment Period End.	01/24/17	

<sup>1</sup> The Commission published its definition of a “small entity” for purposes of rulemaking proceedings at 47 FR 18618 (April 30, 1982). Pursuant to that definition, the Commission is not required to list—but nonetheless does—many of the items contained in this regulatory flexibility agenda. See also 5 U.S.C. 602(a)(1). Moreover, for certain items listed in this agenda, the Commission

Commission has chosen to publish an agenda that includes significant and other substantive rules, regardless of their potential impact on small entities, to provide the public with broader notice of new or revised regulations the Commission may consider and to enhance the public’s opportunity to participate in the rulemaking process.

Action	Date	FR Cite
Supplemental NPRM Comment Period Extended.	01/26/17	82 FR 8502
Supplemental NPRM Comment Period Extended End.	05/01/17	

Action	Date	FR Cite
Next Action Undetermined.	To Be Determined	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact: Marilee Dahlman,  
Phone: 202 418-5264, Email:  
mdahlman@cftc.gov.*

*RIN: 3038-AD52*

[FR Doc. 2020-16748 Filed 8-25-20; 8:45 am]

**BILLING CODE 6351-01-P**







# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XXIII

Bureau of Consumer Financial Protection

---

Semiannual Regulatory Agenda

**BUREAU OF CONSUMER FINANCIAL PROTECTION****12 CFR Ch. X****Semiannual Regulatory Agenda**

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The Bureau of Consumer Financial Protection (Bureau) is publishing this agenda as part of the Spring 2020 Unified Agenda of Federal Regulatory and Deregulatory Actions. The Bureau reasonably anticipates having the regulatory matters identified below under consideration during the period from May 1, 2020, to April 30, 2021. The next agenda will be published in fall 2020 and will update this agenda through fall 2021. Publication of this agenda is in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

**DATES:** This information is current as of March 5, 2020.

**ADDRESSES:** Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.

**FOR FURTHER INFORMATION CONTACT:** A staff contact is included for each regulatory item listed herein. If you require this document in an alternative electronic format, please contact [CFPB\\_Accessibility@cfpb.gov](mailto:CFPB_Accessibility@cfpb.gov).

**SUPPLEMENTARY INFORMATION:** The Bureau is publishing its spring 2020 Agenda as part of the Spring 2020 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The agenda lists the regulatory matters that the Bureau reasonably anticipates having under consideration during the period from May 1, 2020, to April 30, 2021, as described further below. The Bureau's participation in the Unified Agenda is voluntary.<sup>1</sup> The complete Unified Agenda is available to the public at the following website: <http://www.reginfo.gov>.

Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (Dodd-Frank Act), the Bureau has rulemaking, supervisory, enforcement, consumer education, and other

authorities relating to consumer financial products and services. These authorities include the authority to issue regulations under more than a dozen Federal consumer financial laws, which transferred to the Bureau from seven Federal agencies on July 21, 2011. The Bureau's general purpose, as specified in section 1021(a) of the Dodd-Frank Act, is to implement and enforce Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.

Section 1021 of the Dodd-Frank Act specifies the objectives of the Bureau, including ensuring that, with respect to consumer financial products and services, consumers are provided with timely and understandable information to make responsible decisions about financial transactions; consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination; outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens; that Federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition; and markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

As a general matter, the Bureau believes that it can best achieve these statutory purposes and objectives by using its various tools to focus on the prevention of consumer harm. With specific regard to rulemaking, the Bureau seeks to articulate clear rules of the road for regulated entities that promote compliance with the law, foster competition, increase transparency, and preserve fair markets for financial products and services. If Congress directs the Bureau to promulgate rules or address specific issues through rulemaking, the Bureau will comply with the law. If the Bureau has discretion, the Bureau will focus on preventing consumer harm by maximizing informed consumer choice, and by reducing unwarranted regulatory burden which can adversely affect competition and consumers' access to financial products and services. Consistent with these priorities and to enhance transparency, the Unified Agenda identifies the rulemaking activities in which the Bureau is likely to be engaged over the next 12 months

and those that are contemplated in the ensuing year.

**Rulemaking To Implement EGRRCPA**

The Bureau is conducting the two remaining rulemakings mandated in the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018, Public Law 115–174, 132 Stat. 1297 (EGRRCPA). As part of these rulemakings, the Bureau is working to maximize consumer welfare and achieve other statutory objectives through protecting consumers from harm and minimizing regulatory burden, including facilitating industry compliance with rules.

First, section 307 of the EGRRCPA amends the Truth in Lending Act (TILA) to mandate that the Bureau prescribe certain regulations relating to “Property Assessed Clean Energy” (PACE) financing. As defined by EGRRCPA section 307, PACE financing results in a tax assessment on a consumer's real property and covers the costs of home improvements. The required regulations must carry out the purposes of TILA's ability-to-repay (ATR) requirements, currently in place for residential mortgage loans, with respect to PACE financing, and apply TILA's general civil liability provision for violations of the ATR requirements the Bureau will prescribe for PACE financing. The regulations must “account for the unique nature” of PACE financing. Section 307 of the EGRRCPA also specifically authorizes the collection of data and information necessary to support a PACE rulemaking. In March 2019 the Bureau issued an Advance Notice of Proposed Rulemaking (ANPRM) and is continuing to engage with stakeholders and collect information for the rulemaking, including by pursuing quantitative data on the effect of PACE on consumers' financial outcomes.

Second, section 108 of the EGRRCPA directs the Bureau to conduct a rulemaking to exempt from the escrow requirement loans made by certain creditors with assets of \$10 billion or less and meeting other criteria, adding to a 2013 rule issued by the Bureau under the Dodd-Frank Act that created an exemption for creditors with under \$2 billion in assets and meeting other criteria. In anticipation of future rulemaking activity, the Bureau conducted, and in late summer 2019 released, a preliminary analysis of the number of lenders potentially impacted by implementation of the new exemption in section 108 of EGRRCPA. This analysis showed that a limited number of additional lenders would be exempt under section 108 of EGRRCPA

<sup>1</sup> The listing does not include certain routine, frequent, or administrative matters. Further, the fields “Unfunded Mandates,” “E.O. 13771 Designation,” and “Federalism Implications” are not required for independent regulatory agencies, including the Bureau, and, accordingly, the Bureau has indicated responses of “no” or “Independent Agency” for such fields.

once implemented by rule. The Bureau expects to issue a Notice of Proposed Rulemaking (NPRM) in summer 2020.

### **Rulemakings To Implement the DFA and Other Statutes**

#### *1. Continuation of Other Rulemakings*

The Bureau is continuing certain other rulemakings described in its Fall 2019 Agenda to articulate clear rules of the road for regulated entities that promote compliance with the law, foster competition, increase transparency, and preserve fair markets for financial products and services.

Section 1071 of the Dodd-Frank Act amended the Equal Credit Opportunity Act to require, subject to rules prescribed by the Bureau, financial institutions to collect, report, and make public certain information concerning credit applications made by women-owned, minority-owned, and small businesses. The Bureau hosted a symposium on small business data collection in November 2019 to facilitate its decisionmaking. In addition, the Bureau is working to conduct a survey of lenders to obtain estimates of one-time costs lenders of varying sizes would incur to collect and report data pursuant to section 1071. The Bureau's next step will be the release of materials in advance of convening a panel under the Small Business Regulatory Enforcement Fairness Act, in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy, to hear from representatives of small businesses on which Bureau rules to implement section 1071 may impose costs.

In addition, to consider concerns about possible unwarranted regulatory burden, the Bureau issued an NPRM in May 2019 to reconsider the thresholds for reporting data about closed-end mortgage loans and open-end lines of credit under the Bureau's 2015 Home Mortgage Disclosure Act (HMDA) rule. The NPRM also proposed to incorporate into Regulation C an interpretive and procedural rule that the Bureau issued in August 2018 to clarify partial HMDA exemptions created by the EGRRCPA. In August 2019, the Bureau reopened until mid-October the comment period for certain aspects of the NPRM. The Bureau determined that it would issue two final rules at different times to address different aspects of the proposed rule. The Bureau issued the first of these final rules in October 2019. It finalized the proposed 2-year extension of the 500-loan temporary threshold for collecting and reporting data on open-end lines of credit and

incorporated into Regulation C the EGRRCPA partial exemption provisions. The Bureau plans to issue a second final rule in April 2020 that would address the proposed changes to the permanent thresholds for collecting and reporting data on open-end lines of credit and closed-end mortgage loans.

Likewise, to consider concerns about possible unwarranted regulatory burden, the Bureau also issued an ANPRM in May 2019 concerning certain data points that are reported under the 2015 HMDA rule and coverage of certain business or commercial purpose loans. In June 2019, the Bureau extended the comment period on the ANPRM to mid-October 2019. The Bureau expects to issue an NPRM in late summer 2020 to follow up on the ANPRM. The Bureau also expects to issue an NPRM in late summer 2020 addressing the public disclosure of HMDA data in light of consumer privacy interests, so that stakeholders can concurrently consider and comment on the collection and reporting of data points and public disclosure of those data points. This NPRM will follow up on the Bureau's 2018 final policy guidance regarding disclosure of the HMDA data. Until the Bureau promulgates a final rule, it anticipates that it will continue to disclose HMDA data in the manner detailed in the final policy guidance.

In April 2020, the Bureau plans to complete an action begun in February 2019 to revoke the mandatory underwriting requirements of the regulations promulgated in a 2017 rule titled Payday, Vehicle Title, and Certain High-Cost Installment Loans. As amended, the regulations will no longer: (1) Identify as an unfair and abusive practice a lender making a covered short-term or longer-term balloon-payment loan, including payday and vehicle title loans, without reasonably determining that consumers have the ability to repay those loans according to their terms; (2) prescribe mandatory underwriting requirements for making the ability-to-repay determination, or exempt certain loans from the mandatory underwriting requirements; and (3) include definitions or impose reporting and recordkeeping requirements relating to the mandatory underwriting requirements. In response to stakeholder input, the Bureau is now evaluating what, if any, other actions to take with respect to the application of the payments provisions of the 2017 Rule to the short-term, longer-term balloon-payment, and certain high cost installment loans covered by those provisions. These actions could include, but are not limited to, updated

compliance aids, policy statements, or other guidance.

The Bureau also issued an NPRM in May 2019 that would prescribe rules under Regulation F to govern the activities of debt collectors, as that term is defined under the Fair Debt Collection Practices Act. The Bureau's proposal would, among other things, address communications in connection with debt collection; interpret and apply prohibitions on harassment or abuse, false or misleading representations, and unfair practices in debt collection; and clarify requirements for certain consumer-facing debt collection disclosures. The proposal builds on the Bureau's research and pre-rulemaking activities regarding the debt collection market; the conduct of debt collectors remains a top source of complaints to the Bureau. The Bureau expects to take final action in October 2020 with regard to the May 2019 NPRM. The Bureau has also engaged in testing of time-barred debt disclosures that were not the focus of the May 2019 proposal. In early 2020, after completing the testing, the Bureau published a supplemental NPRM related to time-barred debt disclosures.

The Bureau also is continuing work related to a rulemaking to amend the Bureau's Remittance Rule. Section 1073 of the Dodd-Frank Act contains a temporary exception to its requirement that remittance transfer providers disclose actual amounts for remittance transfers. The exception permits insured depository institutions and insured credit unions in certain circumstances to estimate certain required disclosures. As mandated by statute, this exception will expire on July 21, 2020. After completing an assessment in October 2018 of the Remittance Rule and issuing in April 2019 a Request for Information to gather information related to the expiration of the temporary exception and information related to the scope of the Remittance Rule's coverage, the Bureau issued an NPRM in December 2019. In the NPRM, the Bureau proposed to increase a safe harbor threshold under which a person is deemed not to be providing remittance transfers in the normal course of business, from 100 per year to 500 per year. The Bureau also proposed changes to mitigate the effects of the expiration of the statutory temporary exemption. The proposed changes would allow insured institutions to continue to estimate the exchange rate and covered-third party fees under certain circumstances. Finally, the Bureau solicited comment on a permanent exception permitting remittance transfer providers to use estimates for transfers to certain countries and the process for

adding countries to the safe harbor countries list maintained by the Bureau. The Bureau expects to issue a final rule in May 2020.

In July 2019, the Bureau issued an ANPRM to solicit information about possible amendments to the qualified mortgage provisions of Regulation Z. With certain exceptions, Regulation Z requires creditors to make a reasonable, good faith determination of a consumer's ability to repay any residential mortgage loan, and loans that meet Regulation Z's requirements for "qualified mortgages" obtain certain protections from liability. One category of qualified mortgages (QMs) covers certain loans that are eligible for purchase or guarantee by either the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac). Under Regulation Z, this category of QMs (Temporary GSE QM or "Patch" loans) is scheduled to expire no later than January 10, 2021. The Bureau is planning to propose in May 2020 amendments to the definition of General QM that would move away from the 43 percent Debt-to-Income (DTI) requirement and would instead establish an alternative, such as a pricing threshold (*i.e.*, the difference between the loan's annual percentage rate (APR) and the average prime offer rate (APOR) for a comparable transaction) for loans to qualify as QMs. General QM loans would still have to meet the statutory criteria for QM status, including restrictions related to loan features, up-front costs, and underwriting. The Bureau also expects that in May 2020 it will propose to extend the Patch for a short period until the effective date of the proposed alternative or until one or more of the GSEs exits conservatorship, whichever comes first. This would help ensure a smooth and orderly transition away from the Patch by (among other things) allowing the Bureau to complete this rulemaking and to avoid any gap between the expiration of the Patch and the effective date of the proposed alternative. Finally, the Bureau is considering adding a new "seasoning" definition of QM which would be issued through a separate NPRM. This definition would create an alternative pathway to QM safe-harbor status for certain mortgages when the borrower has consistently made timely payments for a period.

The Bureau is participating in interagency rulemaking processes with the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the

National Credit Union Administration, and the Federal Housing Finance Agency to develop regulations to implement the amendments made by the Dodd-Frank Act to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) concerning appraisals. The FIRREA amendments require implementing regulations for quality control standards for automated valuation models (AVMs). These standards are designed to ensure a high level of confidence in the estimates produced by the valuation models, protect against the manipulation of data, seek to avoid conflicts of interest, require random sample testing and reviews, and account for any other such factor that the Agencies determine to be appropriate. The Agencies will continue to work to develop a proposed rule to implement the Dodd-Frank Act's AVM amendments to FIRREA.

## *2. New Projects and Planning for Future Rulemakings*

The Bureau is commencing a new rulemaking to address the anticipated expiration of the LIBOR index, which the UK Financial Conduct Authority has stated that it cannot guarantee the publication of beyond the end of 2021. The Bureau's work is designed to facilitate compliance by open-end and closed-end creditors and to lessen the financial impact to consumers by providing examples of replacement indices that meet Regulation Z requirements. For creditors for HELOCs (including reverse mortgages) and card issuers for credit card accounts, the rule would facilitate the transition of existing accounts to an alternative index, beginning around December 2020, well in advance of LIBOR's anticipated expiration. The rule also would address change-in-terms notice provisions for HELOCs and credit card accounts and how they apply to the transition away from LIBOR, to ensure that consumers are informed of the replacement index and any adjusted margin. To facilitate compliance by card issuers, the rule would address how the rate re-evaluation provisions applicable to credit card accounts apply to the transition from LIBOR to a replacement index. Commencing a notice-and-comment rulemaking will enable the Bureau to facilitate compliance by creditors with Regulation Z as they transition away from LIBOR. The Bureau expects to issue an NPRM in May 2020.

Congress tasked the Bureau with ensuring that markets for consumer financial products and services operate transparently and efficiently to facilitate

access and innovation. One area of innovation we are monitoring is use of artificial intelligence (AI), including a subset of AI, machine learning (ML). Issues concerning use of AI and how it may apply in the context of the Federal consumer financial laws and regulations were raised in response to the Bureau's 2017 Request for Information Regarding Use of Alternative Data and Modeling Techniques in the Credit Process, the Bureau's 2018 Calls for Evidence, and in other outreach since then. As the Bureau continues to monitor developments concerning AI, the Bureau will evaluate whether rulemaking, a policy statement, or other Bureau action may be appropriate.

The Bureau is also actively reviewing existing regulations. Section 1022(d) of the Dodd-Frank Act requires the Bureau to conduct an assessment of each significant rule or order adopted by the Bureau under Federal consumer financial law and publish a report of each assessment not later than 5 years after the effective date of the subject matter or order. The Bureau is conducting an assessment of its Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) Rule and certain amendments.

The Regulatory Flexibility Act (RFA) also requires the Bureau to consider the effect on small entities of certain rules it promulgates. The Bureau published in May 2019 its plan for conducting reviews, consistent with section 610 of the RFA, of certain regulations which are believed to have a significant impact on a substantial number of small entities. Congress specified that the purpose of such reviews shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of the applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities.

The Bureau has conducted its first 610 RFA review, concerning the impact on small banks and credit unions of a 2009 Regulation E amendment governing overdraft services. After considering the statutory review factors, including a review of public comment, the Bureau has determined that the rule should continue without change at this time. The Bureau believes that there is a continued need for this rule, which does not overlap with other Federal or State rules and which likely preserves a valuable consumer choice. The overdraft rule is not complex, and no aspect of the rule was identified as

presenting a unique burden or cost to small entities. Commenters also overwhelmingly supported continuing the 2009 rule without change. The Bureau expects to conduct additional reviews pursuant to section 610 of the RFA, including, commencing in 2020, a review of the Regulation Z rules that implement the Credit Card Accountability Responsibility and Disclosure Act of 2009.

Finally, as required by the Dodd-Frank Act, the Bureau is also continuing to monitor markets for consumer financial products and services to identify risks to consumers and the proper functioning of such markets. As discussed in a recent report by the Government Accountability Office, the Bureau's Division of Research, Markets, and Regulations and specifically its Markets Offices continuously monitor market developments and risks to

consumers. The Bureau also has created a number of cross-Bureau working groups focused around specific markets which advance the Bureau's market monitoring work. The Bureau's market monitoring work assists in identifying issues for potential future rulemaking work.

Dated: March 5, 2020.

**Susan M. Bernard,**

*Assistant Director for Regulations, Bureau of Consumer Financial Protection.*

#### CONSUMER FINANCIAL PROTECTION BUREAU—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
281 .....	Business Lending Data (Regulation B) .....	3170-AA09

#### CONSUMER FINANCIAL PROTECTION BUREAU—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
282 .....	Debt Collection Rule .....	3170-AA41

#### CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

##### Prerule Stage

##### 281. Business Lending Data (Regulation B)

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 1691c–2  
*Abstract:* Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended the Equal Credit Opportunity Act (ECOA) to require, subject to rules prescribed by the Bureau, financial institutions to report information concerning credit applications made by women-owned, minority-owned, and small businesses. The amendments to ECOA made by the Dodd-Frank Act require that certain data be collected, maintained, and reported, including the number of the application and date the application was received; the type and purpose of the loan or credit applied for; the amount of credit applied for and approved; the type of action taken with regard to each application and the date of such action; the census tract of the principal place of business; the gross annual revenue of the business; and the race, sex, and ethnicity of the principal owners of the business. The Dodd-Frank Act also provides authority for the Bureau to require any additional data that the Bureau determines would aid in fulfilling the purposes of this section. The Bureau may adopt exceptions to any requirement of section 1071 and may exempt any financial institution

from its requirements, as the Bureau deems necessary or appropriate to carry out section 1071's purposes. The Bureau issued a Request for Information in 2017 seeking public comment on, among other things, the types of credit products offered and the types of data currently collected by lenders in this market, and the potential complexity, cost of, and privacy issues related to, small business data collection. In November 2019, the Bureau hosted a symposium on small business data collection to facilitate its decision-making. The symposium explored how to efficiently collect appropriate data without imposing unnecessary or undue costs that could limit access to credit from existing market participants or discourage new entrants into the market for small business credit. The information received in response to the Request for Information and the symposium will help the Bureau as it determines how to implement the statute efficiently while minimizing burdens on lenders. In addition, the Bureau is working to conduct a survey of lenders to obtain estimates of one-time costs lenders of varying sizes would incur to collect and report data pursuant to section 1071. The Bureau's next step will be the release of materials in advance of convening a panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA), in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy. Through this SBREFA

process, the Bureau will hear from representatives of small businesses on which Bureau rules to implement section 1071 may impose costs.

##### *Timetable:*

Action	Date	FR Cite
Request for Information.	05/15/17	82 FR 22318
Request for Information Comment Period End.	09/14/17	
Pre-rule Activity—SBREFA Outline.	09/00/20	

##### *Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Kristine Andreassen, Office of Regulations, Consumer Financial Protection Bureau, Washington, DC 20552, *Phone:* 202 435–7700.

*RIN:* 3170-AA09

#### CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

##### Proposed Rule Stage

##### 282. Debt Collection Rule

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 1692l(d)

*Abstract:* In May 2019, the Bureau issued a Notice of Proposed Rulemaking (NPRM), which would prescribe rules under Regulation F to govern the activities of debt collectors, as that term

is defined under the Fair Debt Collection Practices Act (FDCPA). The Bureau's proposal would, among other things, address communications in connection with debt collection; interpret and apply prohibitions on harassment or abuse, false or misleading representations, and unfair practices in debt collection; and clarify requirements for certain consumer-facing debt collection disclosures. The proposal builds on the Bureau's research and pre-rulemaking activities regarding the debt collection market; the conduct of debt collectors remains a top source of complaints to the Bureau. The Bureau expects to take final action in October 2020 with regard to the May 2019 NPRM. The Bureau has also engaged in testing of time-barred debt disclosures that were not addressed in the May 2019 proposal. In February 2020, after completing the testing, the Bureau

issued a supplemental NPRM related to time-barred debt disclosures.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	11/12/13	78 FR 67847
ANPRM Comment Period Extended.	01/14/14	79 FR 2384
ANPRM Comment Period End.	02/10/14	
ANPRM Comment Period Extended End.	02/28/14	
Pre-Rule Activity—SBREFA Outline.	07/28/16	
NPRM .....	05/21/19	84 FR 23274
NPRM Comment Period Extended.	08/02/19	84 FR 37806
NPRM Comment Period End.	08/19/19	
NPRM Comment Period Extended End.	09/18/19	

Action	Date	FR Cite
Supplemental NPRM.	03/03/20	85 FR 12672
Supplemental NPRM Comment Period Extended.	03/27/20	85 FR 17299
Supplemental NPRM Comment Period Extended End.	06/05/20	
Final Rule .....	10/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Kristin McPartland, Office of Regulations, Consumer Financial Protection Bureau, Washington, DC 20552, *Phone:* 202 435-7700.

*RIN:* 3170-AA41

[FR Doc. 2020-16749 Filed 8-25-20; 8:45 am]

**BILLING CODE 4810-AM-P**



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XXIV

Consumer Product Safety Commission

---

Semiannual Regulatory Agenda

**CONSUMER PRODUCT SAFETY COMMISSION****16 CFR Ch. II****Semiannual Regulatory Agenda**

**AGENCY:** U.S. Consumer Product Safety Commission.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** In this document, the Commission publishes its semiannual regulatory flexibility agenda. In addition, this document includes an agenda of regulatory actions that the Commission expects to be under development or review by the agency during the next year. This document meets the requirements of the Regulatory Flexibility Act and Executive Order 12866.

**DATES:** The Commission welcomes comments on the agenda and on the individual agenda entries. Submit comments to the Division of the Secretariat on or before September 25, 2020.

**ADDRESSES:** Caption comments on the regulatory agenda, "Regulatory Flexibility Agenda." You may submit comments by email to: [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov). You may also submit comments by mail or delivery to the Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814-4408.

**FOR FURTHER INFORMATION CONTACT:** For further information on the agenda, in general, contact Meridith L. Kelsch, Office of the General Counsel, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814-4408, [mkelsch@cpsc.gov](mailto:mkelsch@cpsc.gov). For further information regarding a particular item on the agenda, contact the person listed in the column titled, "Contact," for that particular item.

**SUPPLEMENTARY INFORMATION:** The Regulatory Flexibility Act (RFA; 5 U.S.C. 601-612) contains several provisions intended to reduce

unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the RFA requires each agency to publish, twice each year, a regulatory flexibility agenda containing "a brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities." 5 U.S.C. 602. The agency must provide a summary of the nature of the rule, the objectives and legal basis for the rule, and an approximate schedule for acting on each rule for which the agency has issued a notice of proposed rulemaking. *Id.* In addition, the regulatory flexibility agenda must contain the name and telephone number of an agency official who is knowledgeable about the items listed. *Id.* Agencies must attempt to provide notice of their agendas to small entities and solicit their comments, by directly notifying them, or by including the agenda in publications that small entities are likely to obtain. *Id.*

In addition, Executive Order 12866, *Regulatory Planning and Review* (Sep. 30, 1993), requires each agency to publish, twice each year, a regulatory agenda of regulations under development or review during the next year. 58 FR 51735 (Oct. 4, 1993). The executive order states that agencies may combine this agenda with the regulatory flexibility agenda required under the RFA. The agenda required by Executive Order 12866 must include all of the regulatory activities the agency expects to be under development or review during the next 12 months, regardless of whether they may have a significant economic impact on a substantial number of small entities. This agenda also includes regulatory activities that the Commission listed in the fall 2019 agenda and has completed prior to publishing this agenda.

The agenda contains a brief description and summary of each

regulatory activity, including the objectives and legal basis for each; an approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of an agency official who is knowledgeable about items in the agenda.

The internet is the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at: [www.reginfo.gov](http://www.reginfo.gov), in a format that offers users the ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agenda required by the RFA (5 U.S.C. 602), the Commission's printed Agenda entries include only:

(1) Rules that are in the agency's regulatory flexibility agenda, in accordance with the RFA, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that the agency has identified for periodic review under section 610 of the RFA.

Printing of these entries is limited to fields that contain information required by the RFA's agenda requirements. Additional information on these entries is available in the Unified Agenda published on the internet.

The agenda reflects an assessment of the likelihood that the specified event will occur during the next year; the precise dates for each rulemaking are uncertain. New information, changes of circumstances, or changes in the law, may alter anticipated timing. In addition, no final determination by staff or the Commission regarding the need for, or the substance of, any rule or regulation should be inferred from this agenda.

**Alberta E. Mills,**  
Secretary, Consumer Product Safety Commission.

**CONSUMER PRODUCT SAFETY COMMISSION—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
283 .....	Regulatory Options for Table Saws .....	3041-AC31
284 .....	Recreational Off-Road Vehicles .....	3041-AC78

**CONSUMER PRODUCT SAFETY COMMISSION—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
285 .....	Flammability Standard for Upholstered Furniture .....	3041-AB35
286 .....	Fireworks Devices .....	3041-AC35



## CONSUMER PRODUCT SAFETY COMMISSION—LONG-TERM ACTIONS—Continued

Sequence No.	Title	Regulation Identifier No.
287 .....	Portable Generators .....	3041-AC36

**CONSUMER PRODUCT SAFETY COMMISSION (CPSC)**

Final Rule Stage

**283. Regulatory Options for Table Saws**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 5 U.S.C. 553(e); 15 U.S.C. 2051

*Abstract:* In 2006, the Commission granted a petition asking that the Commission issue a rule to prescribe performance standards for an active injury mitigation system to reduce or prevent injuries from contacting the blade of a table saw. The Commission subsequently issued a notice of proposed rulemaking (NPRM) that would establish a performance standard requiring table saws to limit the depth of cut to 3.5 millimeters when a test probe, acting as a surrogate for a human body/finger, contacts the table saw's spinning blade. Staff has conducted several studies to provide information for the rulemaking. Staff is working on a final rule briefing package, which will be submitted to the Commission in FY 2020.

*Timetable:*

Action	Date	FR Cite
Commission Decision to Grant Petition.	07/11/06	
ANPRM .....	10/11/11	76 FR 62678
Notice of Extension of Time for Comments.	12/02/11	76 FR 75504
ANPRM Comment Period End.	12/12/11	
Comment Period End.	02/10/12	
Notice to Reopen Comment Period.	02/15/12	77 FR 8751
Reopened Comment Period End.	03/16/12	
Staff Sent NPRM Briefing Package to Commission.	01/17/17	
Commission Decision.	04/27/17	
NPRM .....	05/12/17	82 FR 22190
NPRM Comment Period End.	07/26/17	
Public Hearing .....	08/09/17	82 FR 31035

Action	Date	FR Cite
Staff Sent 2016 NEISS Table Saw Type Study Status Report to Commission.	08/15/17	
Staff Sent 2017 NEISS Table Saw Special Study to Commission.	11/13/18	
Notice of Availability of 2017 NEISS Table Saw Special Study.	12/04/18	83 FR 62561
Staff Sends a Status Briefing Package on Table Saws to Commission.	08/28/19	
Commission Decision.	09/10/19	
Staff Sends Final Rule Briefing Package to Commission.	09/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Caroleene Paul, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, Phone: 301-987-2225, Email: cpaul@cpsc.gov.  
RIN: 3041-AC31

**284. Recreational Off-Road Vehicles**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 2056; 15 U.S.C. 2058

*Abstract:* The Commission is considering whether recreational off-road vehicles (ROVs) present an unreasonable risk of injury that should be regulated. Staff conducted testing and evaluation programs to develop performance requirements addressing vehicle stability, vehicle handling, and occupant protection. In 2014, the Commission issued an NPRM proposing standards addressing vehicle stability, vehicle handling, and occupant protection. Congress directed in fiscal year 2016, and reaffirmed in subsequent fiscal year appropriations, that none of the amounts made available by the Appropriations Bill may be used to

finalize or implement the proposed Safety Standard for Recreational Off-Highway Vehicles until after the National Academy of Sciences completes a study to determine specific information as set forth in the Appropriations Bill. Staff ceased work on a Final Rule briefing package and instead engaged the Recreational Off-Highway Vehicle Association (ROHVA) and Outdoor Power Equipment Institute (OPEI) in the development of voluntary standards for ROVs. Staff conducted dynamic and static tests on ROVs, shared test results with ROHVA and OPEI, and participated in the development of revised voluntary standards to address staff's concerns with vehicle stability, vehicle handling, and occupant protection. The voluntary standards for ROVs were revised and published in 2016 (ANSI/ROHVA 1-2016 and ANSI/OPEI B71.9-2016). Staff assessed the new voluntary standard requirements and prepared a termination of rulemaking briefing package that was submitted to the Commission on November 22, 2016. The Commission voted not to terminate the rulemaking associated with ROVs. However, in the FY 2020 Operating Plan, the Commission directed staff to prepare a rulemaking termination briefing package.

*Timetable:*

Action	Date	FR Cite
Staff Sends ANPRM Briefing Package to Commission.	10/07/09	
Commission Decision.	10/21/09	
ANPRM .....	10/28/09	74 FR 55495
ANPRM Comment Period Extended.	12/22/09	74 FR 67987
Extended Comment Period End.	03/15/10	
Staff Sends NPRM Briefing Package to Commission.	09/24/14	
Staff Sends Supplemental Information on ROVs to Commission.	10/17/14	
Commission Decision.	10/29/14	

Action	Date	FR Cite
NPRM Published in <b>Federal Register</b> .	11/19/14	79 FR 68964
NPRM Comment Period Extended.	01/23/15	80 FR 3535
Extended Comment Period End.	04/08/15	
Staff Sends Briefing Package Assessing Voluntary Standards to Commission.	11/22/16	
Commission Decision Not to Terminate.	01/25/17	
Staff Sends Briefing Package to Commission.	09/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Caroleene Paul, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, Phone: 301-987-2225, Email: cpaul@cpsc.gov.

RIN: 3041-AC78

## CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

### Long-Term Actions

#### 285. Flammability Standard for Upholstered Furniture

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 1193; 5 U.S.C. 801

*Abstract:* The Commission published a notice of proposed rulemaking (NPRM) to prescribe flammability standards for upholstered furniture under the Flammable Fabrics Act (FFA) to address the risk of fire associated with cigarette and small open-flame ignitions of upholstered furniture. The Commission's proposed rule would require that upholstered furniture have cigarette-resistant fabrics or cigarette and open flame-resistant barriers. The proposed rule would not require flame-resistant chemicals in fabrics or fillings. Since the Commission published the NPRM, CPSC staff has conducted testing of upholstered furniture, using both full-scale furniture and bench-scale models. In addition, staff has worked with the California Bureau of Household Goods and services (BHGS, formerly BEARHFTI), as well as voluntary standards development organizations, to

improve upon and further refine the technical aspects of voluntary flammability requirements in upholstered furniture. Staff will continue to work with voluntary standards organizations.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	06/15/94	59 FR 30735
Commission Hearing May 5 & 6, 1998 on Possible Toxicity of Flame-Retardant Chemicals.	03/17/98	63 FR 13017
Meeting Notice ....	03/20/02	67 FR 12916
Notice of Public Meeting.	08/27/03	68 FR 51564
Public Meeting ....	09/24/03	
ANPRM .....	10/23/03	68 FR 60629
ANPRM Comment Period End.	12/22/03	
Staff Held Public Meeting.	10/28/04	
Staff Held Public Meeting.	05/18/05	
Staff Sent Status Report to Commission.	01/31/06	
Staff Sent Status Report to Commission.	11/03/06	
Staff Sent Status Report to Commission.	12/28/06	
Staff Sent Options Package to Commission.	12/22/07	
Commission Decision to Direct Staff to Prepare Draft NPRM.	12/27/07	
Staff Sent Draft NPRM to Commission.	01/22/08	
Commission Decision to Publish NPRM.	02/01/08	
NPRM .....	03/04/08	73 FR 11702
NPRM Comment Period End.	05/19/08	
Staff Published NIST Report on Standard Test Cigarettes.	05/19/09	
Staff Publishes NIST Report on Standard Research Foam.	09/14/12	
Notice of April 25 Public Meeting and Request for Comments.	03/20/13	78 FR 17140
Staff Holds Upholstered Furniture Fire Safety Technology Meeting.	04/25/13	
Comment Period End.	07/01/13	

Action	Date	FR Cite
Staff Sends Briefing Package to Commission on California's TB 117-2013.	09/08/16	
Staff Sends Options Package to the Commission.	09/25/19	
Commission Decision.	10/04/19	
Staff Works to Improve Voluntary Standards Related to Upholstered Furniture.	To Be Determined	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Andrew Lock, Project Manager, Directorate for Laboratory Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, Phone: 301 987-2099, Email: alock@cpsc.gov.

RIN: 3041-AB35

#### 286. Fireworks Devices

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 1261

*Abstract:* In July 2016, the Commission issued an ANPRM, requesting comments on whether there was a need for the agency to update and strengthen its regulations on fireworks devices. In FY 2012, staff concentrated efforts on developing an updated test method to evaluate aerial firework break charge energy release, assess potential hazards to consumers associated with "adult snapper" fireworks, and propose appropriate solutions. Staff released status reports providing information regarding staff's fireworks research. In December 2015, staff prepared a rule review of the fireworks regulations. Subsequently, the Commission issued an NPRM, proposing several changes and additions to the fireworks regulations. The NPRM proposed requirements that fall into three categories: (1) New hazardous substance bans, (2) changes to ease the burdens associated with existing requirements, and (3) clarifications of existing requirements. CPSC received more than 2,400 written comments in response to the NPRM. Staff sent a final rule briefing package to the Commission in September 2018. In September 2019, the Commission voted to not approve staff's recommended final rule.

*Timetable:*

Action	Date	FR Cite	Laboratory Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, Phone: 301-987-2526, Email: rvalliere@cpsc.gov. RIN: 3041-AC35	Action	Date	FR Cite
Staff Sent Draft ANPRM to Commission.	06/26/06			Staff Sent ANPRM to Commission.	07/06/06	
Commission Decision.	06/30/06			Staff Sent Supplemental Material to Commission.	10/12/06	
ANPRM .....	07/12/06	71 FR 39249		Commission Decision.	10/26/06	
ANPRM Comment Period End.	09/11/06			Staff Sent Draft ANPRM to Commission.	11/21/06	
Staff Released a Fireworks Safety Standards Development Status Report.	01/31/13			ANPRM .....	12/12/06	71 FR 74472
Staff Released a Fireworks Safety Standards Development Status Report.	10/23/13			ANPRM Comment Period End.	02/12/07	
Staff Released Fireworks Safety Standards Development Status Report Draft.	11/24/14			Staff Releases Research Report for Comment.	10/10/12	
Staff Sent Briefing Package to Commission with Rule Review Recommendations.	12/30/15			NPRM .....	11/21/16	81 FR 83556
Staff Sent Draft NPRM to Commission.	12/14/16			NPRM Comment Period Extended.	12/13/16	81 FR 89888
Commission Decision.	01/25/17			Public Hearing for Oral Comments.	03/08/17	82 FR 8907
NPRM .....	02/02/17	82 FR 9012		NPRM Comment Period End.	04/24/17	
Comment Period Extended.	04/18/17	82 FR 17947		Staff Sends Notice of Availability to the Commission.	06/26/19	
Comment Period End.	07/17/17			Commission Decision.	07/02/19	
Notice of Opportunity for Oral Presentation of Comments.	02/05/18	83 FR 5056		Notice of Availability.	07/09/19	84 FR 32729
Staff Sent Final Rule Briefing Package to Commission.	09/26/18			Staff is Evaluating the Voluntary Standards.	06/00/21	
Commission Decision.	09/24/19					
Gather further information.	06/00/21					

*Regulatory Flexibility Analysis Required: Yes.*  
*Agency Contact:* Rodney Valliere Ph.D., Project Manager, Directorate for

*E.O. 13771 Designation:* Independent agency.  
*Legal Authority:* 15 U.S.C. 2051  
*Abstract:* In 2006, the Commission issued an advance notice of proposed rulemaking (ANPRM) under the Consumer Product Safety Act (CPSA) concerning portable generators. The ANPRM discussed regulatory options that could reduce deaths and injuries related to portable generators, particularly those involving carbon monoxide (CO) poisoning. In FY 2006, staff awarded a contract to develop a prototype generator engine with reduced CO in the exhaust. Also, in FY 2006, staff entered into an interagency agreement (IAG) with the National Institute of Standards and Technology (NIST) to conduct tests with a generator, in both off-the-shelf and prototype configurations, operating in the garage attached to NIST's test house. In FY 2009, staff entered into a second IAG with NIST with the goal of developing CO emission performance requirements for a possible proposed regulation that would be based on health effects criteria. After additional staff and contractor work, the Commission issued a notice of proposed rulemaking (NPRM) proposing a performance standard that would limit the CO emissions from operating portable generators. In 2018, two voluntary standards adopted different CO mitigation requirements intended to address the CO poisoning hazard associated with portable generators. Staff is evaluating those voluntary standards. The Commission sought public comments on staff's plans to assess the effectiveness of the voluntary standards' requirements.  
*Timetable:*

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Janet L. Buyer, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, Phone: 301-987-2293, Email: jbuyer@cpsc.gov.

RIN: 3041-AC36

[FR Doc. 2020-16768 Filed 8-25-20; 8:45 am]

BILLING CODE 6355-01-P





# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XXV

Federal Communications Commission

---

Semiannual Regulatory Agenda

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Ch. I****Unified Agenda of Federal Regulatory and Deregulatory Actions—Spring 2020****AGENCY:** Federal Communications Commission.**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** Twice a year, in spring and fall, the Commission publishes in the **Federal Register** a list in the Unified Agenda of those major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act (U.S.C. 602). The Unified Agenda also provides the Code of Federal Regulations citations and legal authorities that govern these proceedings. The complete Unified Agenda will be published on the internet in a searchable format at [www.reginfo.gov](http://www.reginfo.gov).

**ADDRESSES:** Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Maura McGowan, Telecommunications Policy Specialist, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, (202) 418-0990.

**SUPPLEMENTARY INFORMATION:****Unified Agenda of Major and Other Significant Proceedings**

The Commission encourages public participation in its rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared a list of important proceedings now in progress. The General Services Administration publishes the Unified Agenda in the **Federal Register** in the spring and fall of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

**Docket Number**—assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry concerning the matter under consideration. The Commission has used docket numbers since January 1, 1978. Docket numbers consist of the last two digits of the calendar year in which the docket was established plus a sequential number that begins at 1 with the first docket initiated during a calendar year (e.g., Docket No. 15–1 or Docket No. 17–1). The abbreviation for the responsible bureau usually precedes the docket number, as in “MB Docket No. 17–289,” which indicates that the responsible bureau is the Media Bureau. A docket number consisting of only five digits (e.g., Docket No. 29622) indicates that the docket was established before January 1, 1978.

**Notice of Inquiry (NOI)**—issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

**Notice of Proposed Rulemaking (NPRM)**—issued by the Commission when it is proposing a specific change to Commission rules and regulations. Before any changes are actually made, interested parties may submit written comments on the proposed revisions.

**Further Notice of Proposed Rulemaking (FNPRM)**—issued by the Commission when additional comment in the proceeding is sought.

**Memorandum Opinion and Order (MO&O)**—issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or address a petition for reconsideration of a decision.

**Rulemaking (RM) Number**—assigned to a proceeding after the appropriate bureau or office has reviewed a petition for rulemaking, but before the Commission has taken action on the petition.

**Report and Order (R&O)**—issued by the Commission to state a new or amended rule or state that the Commission rules and regulations will not be revised.

**Marlene H. Dortch,**  
Secretary, Federal Communications Commission.

**CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
288 .....	Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991 (CG Docket No. 02–278).	3060–AI14
289 .....	Rules and Regulations Implementing Section 225 of the Communications Act (Telecommunications Relay Service) (CG Docket No. 03–123).	3060–AI15
290 .....	Consumer Information, Disclosure, and Truth in Billing and Billing Format (CC Docket No. 98–170; CG Docket No. 09–158; WC Docket No. 04–36).	3060–AI61
291 .....	Structure and Practices of the Video Relay Service (VRS) Program (CG Docket No. 10–51) .....	3060–AJ42
292 .....	Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services; CG Docket No. 13–24.	3060–AK01
293 .....	Advanced Methods to Target and Eliminate Unlawful Robocalls (CG Docket No. 17–59) .....	3060–AK62

**OFFICE OF ENGINEERING AND TECHNOLOGY—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
294 .....	Encouraging the Provision of New Technologies and Services to the Public (GN Docket No. 18–22) .....	3060–AK80
295 .....	Spectrum Horizon (ET Docket No. 18–21) .....	3060–AK81
296 .....	Use of the 5.850–5.925 GHz Band (ET Docket No. 19–138) .....	3060–AK96

## OFFICE OF ENGINEERING AND TECHNOLOGY—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
297 .....	Federal Earth Stations—Non-Federal Fixed Satellite Service Space Stations; Spectrum for Non-Federal Space Launch Operations; ET Docket No. 13–115.	3060–AK09
298 .....	Authorization of Radio Frequency Equipment; ET Docket No. 13–44 .....	3060–AK10
299 .....	Unlicensed White Space Devices (ET Docket No. 16–56) .....	3060–AK46
300 .....	Amendment of Parts 1, 2, 15, 90, and 95 of the Commission's Rules to Permit Radar Services in the 76–81 GHz Band (ET Docket No. 15–26).	3060–AK82

## INTERNATIONAL BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
301 .....	International Settlements Policy Reform (IB Docket No. 11–80) .....	3060–AJ77
302 .....	Update to Parts 2 and 25 Concerning NonGeostationary, Fixed-Satellite Service Systems, and Related Matters: IB Docket No. 16–408.	3060–AK59
303 .....	Amendment of Parts 2 and 25 of the FCC Rules to Facilitate the Use of Earth Stations in Motion Communicating With Geostationary Orbit Space Stations in FSS Bands: IB Docket No. 17–95.	3060–AK84
304 .....	Further Streamlining Part 25 Rules Governing Satellite Services: IB Docket No. 18–314 .....	3060–AK87
305 .....	Streamlining Licensing Procedures for Small Satellites; IB Docket No. 18–86 .....	3060–AK88
306 .....	Facilitating the Communications of Earth Stations in Motion With Non-Geostationary Orbit Space Stations: IB Docket No. 18–315.	3060–AK89
307 .....	Mitigation of Orbital Debris in the New Space Age: IB Docket No. 18–313 .....	3060–AK90

## MEDIA BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
308 .....	Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard (GN Docket No. 16–142).	3060–AK56
309 .....	Electronic Delivery of MVPD Communications (MB Docket No. 17–317) .....	3060–AK70
310 .....	2018 Quadrennial Regulatory Review of the Commission's Broadcast Ownership Rules (MB Docket 18–349).	3060–AK77
311 .....	Children's Television Programming Rules (MB Docket 18–202) .....	3060–AK78
312 .....	Amendment of Part 74 of the Commission's Rules Regarding FM Translator Interference (MB Docket 18–119).	3060–AK79
313 .....	Equal Employment Opportunity Enforcement (MB Docket 19–177) .....	3060–AK86
314 .....	Use of Common Antenna Site (MB Docket No. 19–282) .....	3060–AK99

## OFFICE OF MANAGING DIRECTOR—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
315 .....	Assessment and Collection of Regulatory Fees .....	3060–AK64

## PUBLIC SAFETY AND HOMELAND SECURITY BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
316 .....	Wireless E911 Location Accuracy Requirements: PS Docket No. 07–114 .....	3060–AJ52
317 .....	Improving Outage Reporting for Submarine Cables and Enhancing Submarine Cable Outage Data; GN Docket No. 15–206.	3060–AK39
318 .....	Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications: PS Docket No. 15–80.	3060–AK40
319 .....	New Part 4 of the Commission's Rules Concerning Disruptions to Communications; ET Docket No. 04–35	3060–AK41
320 .....	Wireless Emergency Alerts (WEA): PS Docket No. 15–91 .....	3060–AK54
321 .....	Blue Alert EAS Event Code .....	3060–AK63

## WIRELESS TELECOMMUNICATIONS BUREAU—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
322 .....	Expanding Flexible Use of the 3.7 to 4.2 GHz Band: GN Docket No. 18–122 .....	3060–AK76

## WIRELESS TELECOMMUNICATIONS BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
323 .....	Universal Service Reform Mobility Fund (WT Docket No. 10–208) .....	3060–AJ58
324 .....	Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions (GN Docket No. 12–268).	3060–AJ82
325 .....	Amendment of Parts 1, 2, 22, 24, 27, 90, and 95 of the Commission's Rules to Improve Wireless Coverage Through the Use of Signal Boosters (WT Docket No. 10–4).	3060–AJ87
326 .....	Amendment of the Commission's Rules Governing Certain Aviation Ground Station Equipment (Squitter) (WT Docket Nos. 10–61 and 09–42).	3060–AJ88
327 .....	Promoting Technological Solutions to Combat Wireless Contraband Device Use in Correctional Facilities; GN Docket No. 13–111.	3060–AK06
328 .....	Promoting Investment in the 3550–3700 MHz Band; GN Docket No. 17–258 .....	3060–AK12
329 .....	Use of Spectrum Bands Above 24 GHz for Mobile Services—Spectrum Frontiers: WT Docket 10–112 .....	3060–AK44
330 .....	Transforming the 2.5 GHz Band .....	3060–AK75
331 .....	Amendment of the Commission's Rules to Promote Aviation Safety: WT Docket No. 19–140 .....	3060–AK92
332 .....	Establishing the Digital Opportunity Data Collection; WC Docket Nos. 19–195 and 11–10 .....	3060–AK93

## WIRELESS TELECOMMUNICATIONS BUREAU—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
333 .....	Service Rules for Advanced Wireless Services of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915–1920 MHz and 1995–2000 MHz Bands (WT Docket No. 12–357).	3060–AJ86

## WIRELINE COMPETITION BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
334 .....	Numbering Resource Optimization .....	3060–AH80
335 .....	Jurisdictional Separations .....	3060–AJ06
336 .....	Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans.	3060–AJ15
337 .....	Local Number Portability Porting Interval and Validation Requirements (WC Docket No. 07–244) .....	3060–AJ32
338 .....	Rural Call Completion; WC Docket No. 13–39 .....	3060–AJ89
339 .....	Rates for Inmate Calling Services; WC Docket No. 12–375 .....	3060–AK08
340 .....	Comprehensive Review of the Part 32 Uniform System of Accounts (WC Docket No. 14–130) .....	3060–AK20
341 .....	Restoring Internet Freedom (WC Docket No. 17–108); Protecting and Promoting the Open Internet (GN Docket No. 14–28).	3060–AK21
342 .....	Technology Transitions; GN Docket No. 13–5, WC Docket No. 05–25; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment; WC Docket No. 17–84.	3060–AK32
343 .....	Implementation of the Universal Service Portions of the 1996 Telecommunications Act .....	3060–AK57
344 .....	Toll Free Assignment Modernization and Toll Free Service Access Codes: WC Docket No. 17–192, CC Docket No. 95–155.	3060–AK91
345 .....	Call Authentication Trust Anchor .....	3060–AL00
346 .....	Implementation of the National Suicide Improvement Act of 2018 .....	3060–AL01
347 .....	Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services	3060–AL02
348 .....	Deregulation and Detariffing of Retail Access Charges .....	3060–AL03

**FEDERAL COMMUNICATIONS COMMISSION (FCC)***Consumer and Governmental Affairs Bureau*

## Long-Term Actions

**288. Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991 (CG Docket No. 02–278)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 227

*Abstract:* In this docket, the Commission considers rules and policies to implement the Telephone Consumer Protection Act of 1991

(TCPA). The TCPA places requirements on robocalls (calls using an automatic telephone dialing system, an autodialer, a prerecorded or, an artificial voice), telemarketing calls, and unsolicited fax advertisements.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/08/02	67 FR 62667
FNPRM .....	04/03/03	68 FR 16250
Order .....	07/25/03	68 FR 44144
Order Effective .....	08/25/03	68 FR 50978
Order on Reconsideration.	08/25/03	68 FR 50978
Order .....	10/14/03	68 FR 59130
FNPRM .....	03/31/04	69 FR 16873

Action	Date	FR Cite
Order .....	10/08/04	69 FR 60311
Order .....	10/28/04	69 FR 62816
Order on Reconsideration.	04/13/05	70 FR 19330
Order .....	06/30/05	70 FR 37705
NPRM .....	12/19/05	70 FR 75102
Public Notice .....	04/26/06	71 FR 24634
Order .....	05/03/06	71 FR 25967
NPRM .....	12/14/07	72 FR 71099
Declaratory Ruling	02/01/08	73 FR 6041
R&O .....	07/14/08	73 FR 40183
Order on Reconsideration.	10/30/08	73 FR 64556
NPRM .....	03/22/10	75 FR 13471
R&O .....	06/11/12	77 FR 34233
Public Notice .....	06/30/10	75 FR 34244



Action	Date	FR Cite	Action	Date	FR Cite	Action	Date	FR Cite
Public Notice (Reconsideration Petitions Filed).	10/03/12	77 FR 60343	Public Notice .....	03/07/05	70 FR 10930	NPRM .....	05/02/11	76 FR 24442
Announcement of Effective Date.	10/16/12	77 FR 63240	Order .....	03/23/05	70 FR 14568	Order .....	07/25/11	76 FR 44326
Opposition End Date.	10/18/12		Public Notice/Announcement of Date.	04/06/05	70 FR 17334	Final Rule (Order)	09/27/11	76 FR 59551
Rule Corrections	11/08/12	77 FR 66935	Order .....	07/01/05	70 FR 38134	Final Rule; Announcement of Effective Date.	11/22/11	76 FR 72124
Declaratory Ruling (release date).	11/29/12		Order on Reconsideration.	08/31/05	70 FR 51643	Proposed Rule (Public Notice).	02/28/12	77 FR 11997
Declaratory Ruling (release date).	05/09/13		R&O .....	08/31/05	70 FR 51649	Proposed Rule (FNPRM).	02/01/12	77 FR 4948
Declaratory Ruling and Order.	10/09/15	80 FR 61129	Order .....	09/14/05	70 FR 54294	First R&O .....	07/25/12	77 FR 43538
NPRM .....	05/20/16	81 FR 31889	Public Notice .....	09/14/05	70 FR 54298	Public Notice .....	10/29/12	77 FR 65526
Declaratory Ruling	07/05/16		R&O/Order on Reconsideration.	10/12/05	70 FR 59346	Order on Reconsideration.	12/26/12	77 FR 75894
R&O .....	11/16/16	81 FR 80594	Order .....	12/23/05	70 FR 76208	Order .....	02/05/13	78 FR 8030
Declaratory Ruling	12/06/19		Order .....	12/28/05	70 FR 76712	Order (Interim Rule).	02/05/13	78 FR 8032
Declaratory Ruling	12/09/19		NPRM .....	12/29/05	70 FR 77052	NPRM .....	02/05/13	78 FR 8090
Next Action Undetermined.			Declaratory Ruling/Clarification.	02/01/06	71 FR 5221	Announcement of Effective Date.	03/07/13	78 FR 14701
			FNPRM .....	05/31/06	71 FR 30848	NPRM Comment Period End.	03/13/13	
			FNPRM .....	06/01/06	71 FR 31131	FNPRM .....	07/05/13	78 FR 40407
			Declaratory Ruling/Dismissal of Petition.	06/21/06	71 FR 35553	FNPRM Comment Period End.	09/18/13	
			Clarification .....	06/28/06	71 FR 36690	R&O .....	07/05/13	78 FR 40582
			Declaratory Ruling on Reconsideration.	07/06/06	71 FR 38268	R&O .....	08/15/13	78 FR 49693
			Order on Reconsideration.	08/16/06	71 FR 47141	FNPRM .....	08/15/13	78 FR 49717
			MO&O .....	08/16/06	71 FR 47145	FNPRM Comment Period End.	09/30/13	
			Clarification .....	08/23/06	71 FR 49380	R&O .....	08/30/13	78 FR 53684
			FNPRM .....	09/13/06	71 FR 54009	FNPRM .....	09/03/13	78 FR 54201
			Final Rule; Clarification.	02/14/07	72 FR 6960	NPRM .....	10/23/13	78FR 63152
			Order .....	03/14/07	72 FR 11789	FNPRM Comment Period End.	11/18/13	
			R&O .....	08/06/07	72 FR 43546	Petition for Reconsideration; Request for Comment.	12/16/13	78 FR 76096
			Public Notice .....	08/16/07	72 FR 46060	Petition for Reconsideration; Request for Comment.	12/16/13	78 FR 76097
			Order .....	11/01/07	72 FR 61813	Request for Clarification; Request for Comment; Correction.	12/30/13	78 FR 79362
			Public Notice .....	01/04/08	73 FR 863	Petition for Reconsideration Comment Period End.	01/10/14	
			R&O/Declaratory Ruling.	01/17/08	73 FR 3197	NPRM Comment Period End.	01/21/14	
			Order .....	02/19/08	73 FR 9031	Announcement of Effective Date.	07/11/14	79 FR 40003
			Order .....	04/21/08	73 FR 21347	Announcement of Effective Date.	08/28/14	79 FR 51446
			R&O .....	04/21/08	73 FR 21252	Correction—Announcement of Effective Date.	08/28/14	79 FR 51450
			Order .....	04/23/08	73 FR 21843	Technical Amendments.	09/09/14	79 FR 53303
			Public Notice .....	04/30/08	73 FR 23361	Public Notice .....	09/15/14	79 FR 54979
			Order .....	05/15/08	73 FR 28057	R&O and Order ...	10/21/14	79 FR 62875
			Declaratory Ruling	07/08/08	73 FR 38928	FNPRM .....	10/21/14	79 FR 62935
			FNPRM .....	07/18/08	73 FR 41307	FNPRM Comment Period End.	12/22/14	
			R&O .....	07/18/08	73 FR 41286	Final Action (Announcement of Effective Date).	10/30/14	79 FR 64515
			Public Notice .....	08/01/08	73 FR 45006	Final Rule Effective.	10/30/14	
			Public Notice .....	08/05/08	73 FR 45354	FNPRM .....	11/08/15	80 FR 72029
			Public Notice .....	10/10/08	73 FR 60172			
			Order .....	10/23/08	73 FR 63078			
			2nd R&O and Order on Reconsideration.	12/30/08	73 FR 79683			
			Order .....	05/06/09	74 FR 20892			
			Public Notice .....	05/07/09	74 FR 21364			
			NPRM .....	05/21/09	74 FR 23815			
			Public Notice .....	05/21/09	74 FR 23859			
			Public Notice .....	06/12/09	74 FR 28046			
			Order .....	07/29/09	74 FR 37624			
			Public Notice .....	08/07/09	74 FR 39699			
			Order .....	09/18/09	74 FR 47894			
			Order .....	10/26/09	74 FR 54913			
			Public Notice .....	05/12/10	75 FR 26701			
			Order Denying Stay Motion (Release Date).	07/09/10				
			Order .....	08/13/10	75 FR 49491			
			Order .....	09/03/10	75 FR 54040			
			NPRM .....	11/02/10	75 FR 67333			

### Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Kristi Thornton, Associate Division Chief, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-2467, Email: kristi.thornton@fcc.gov, RIN: 3060-A114

### 289. Rules and Regulations Implementing Section 225 of the Communications Act (Telecommunications Relay Service) (CG Docket No. 03-123)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 225

Abstract: This proceeding continues the Commission's inquiry into improving the quality of telecommunications relay service (TRS) and furthering the goal of functional equivalency, consistent with Congress' mandate that TRS regulations encourage the use of existing technology and not discourage or impair the development of new technology. In this docket, the Commission explores ways to improve emergency preparedness for TRS facilities and services, new TRS technologies, public access to information and outreach, and issues related to payments from the Interstate TRS Fund.

### Timetable:

Action	Date	FR Cite
NPRM .....	08/25/03	68 FR 50993
R&O, Order on Reconsideration.	09/01/04	69 FR 53346
FNPRM .....	09/01/04	69 FR 53382
Public Notice .....	02/17/05	70 FR 8034
Declaratory Ruling/Interpretation.	02/25/05	70 FR 9239

Action	Date	FR Cite
FNPRM Comment Period End.	01/01/16	
Public Notice .....	01/20/16	81 FR 3085
Public Notice Comment Period End.	02/16/16	
R&O .....	03/21/16	81 FR 14984
FNPRM .....	08/24/16	81 FR 57851
FNPRM Comment Period End.	09/14/16	
NOI and FNPRM	04/12/17	82 FR 17613
NOI and FNPRM Comment Period End.	05/30/17	
R&O .....	04/13/17	82 FR 17754
R&O .....	04/27/17	82 FR 19322
FNPRM .....	04/27/17	82 FR 19347
FNPRM Comment Period End.	07/11/17	
R&O .....	06/23/17	82 FR 28566
Public Notice .....	07/21/17	82 FR 33856
Public Notice—Correction.	07/25/17	82 FR 34471
Public Notice Comment Period End.	07/31/17	
Public Notice—Correction Comment Period End.	08/17/17	
R&O .....	08/22/17	82 FR 39673
Announcement of Effective Date.	10/17/17	82 FR 48203
Public Notice; Petition for Reconsideration.	10/25/17	82 FR 49303
Oppositions Due Date.	11/20/17	
R&O and Declaratory Ruling.	06/27/18	83 FR 30082
FNPRM .....	07/18/18	83 FR 33899
FNPRM Comment Period End.	11/15/18	
Public Notice .....	08/23/18	83 FR 42630
Public Notice Opposition Period End.	09/17/18	
Announcement of Effective Date.	02/04/19	84 FR 1409
R&O .....	03/08/19	84 FR 8457
FNPRM .....	03/14/19	84 FR 9276
FNPRM Comment Period End.	04/29/19	
R&O .....	06/06/19	84 FR 26364
FNPRM .....	06/06/19	84 FR 26379
Petition for Recon Request for Comment.	06/18/19	84 FR 28264
Petition for Recon Comment Period End.	07/15/19	
FNPRM Comment Period End.	08/05/19	
R&O .....	01/06/20	85 FR 462
R&O .....	01/09/20	85 FR 1125
NPRM .....	01/09/20	85 FR 1134
NPRM Comment Period End.	02/13/20	
Announcement of Effective Date.	02/19/20	85 FR 9392
Next Action Undetermined.		

### Regulatory Flexibility Analysis Required: Yes.

*Agency Contact:* Eliot Greenwald, Deputy Chief, Disability Rights Office, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–2235, *Email:* eliot.greenwald@fcc.gov.  
*RIN:* 3060–AI15

### 290. Consumer Information, Disclosure, and Truth in Billing and Billing Format (CC Docket No. 98–170; CG Docket No. 09–158; WC Docket No. 04–36)

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 201; 47 U.S.C. 258

*Abstract:* In these dockets, the Commission examines issues concerning consumer confusion related to billing for telecommunications services. It has considered and adopted rules and policies ensuring truth-in-billing and addressing “cramming,” the unlawful placement of unauthorized charges on a telephone bill.

#### Timetable:

Action	Date	FR Cite
FNPRM .....	05/25/05	70 FR 30044
R&O .....	05/25/05	70 FR 29979
NOI .....	08/28/09	
Public Notice .....	05/20/10	75 FR 28249
Public Notice .....	06/11/10	75 FR 33303
NPRM .....	11/26/10	75 FR 72773
NPRM .....	08/23/11	76 FR 52625
NPRM Comment Period End.	11/21/11	
Order (Reply Comment Period Extended).	11/30/11	76 FR 74017
Reply Comment Period End.	12/05/11	
R&O .....	05/24/12	77 FR 30915
FNPRM .....	05/24/12	77 FR 30972
FNPRM Comment Period End.	07/09/12	
Order (Comment Period Extended).	07/17/12	77 FR 41955
Comment Period End.	07/20/12	
Announcement of Effective Dates.	10/26/12	77 FR 65230
Correction of Final Rule.	11/30/12	77 FR 71353
Correction of Final Rule.	11/30/12	77 FR 71354
NPRM .....	08/14/17	82 FR 37830
NPRM Comment Period End.	09/13/17	
Public Notice .....	01/13/20	85 FR 1798
Next Action Undetermined.		

### Regulatory Flexibility Analysis Required: Yes.

*Agency Contact:* Erica McMahon, Attorney Advisor, Federal Communications Commission, Consumer and Governmental Affairs

Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–0346, *Email:* erica.mcmahon@fcc.gov.  
*RIN:* 3060–AI61

### 291. Structure and Practices of the Video Relay Service (VRS) Program (CG Docket No. 10–51)

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 225; 47 U.S.C. 303(r)

*Abstract:* The Commission takes a fresh look at its VRS rules to ensure that it is available to and used by the full spectrum of eligible users, encourages innovation, and is provided efficiently to be less susceptible to the waste, fraud, and abuse that have plagued the program and threatened its long-term viability. The Commission also considers the most effective and efficient way to make VRS available and to determine what is the most fair, efficient, and transparent cost-recovery methodology. In addition, the Commission looks at various ways to measure the quality of VRS so as to ensure a better consumer experience.

#### Timetable:

Action	Date	FR Cite
Declaratory Ruling	05/07/10	75 FR 25255
Declaratory Ruling	07/13/10	75 FR 39945
Order .....	07/13/10	75 FR 39859
Notice of Inquiry ..	07/19/10	75 FR 41863
NPRM .....	08/23/10	75 FR 51735
Interim Final Rule	02/15/11	76 FR 8659
Public Notice .....	03/02/11	76 R 11462
R&O .....	05/02/11	76 FR 24393
FNPRM .....	05/02/11	76 FR 24437
NPRM .....	05/02/11	76 FR 24442
R&O (Correction)	05/27/11	76 FR 30841
Order .....	07/25/11	76 FR 44326
2nd R&O .....	08/05/11	76 FR 47469
Order (Interim Final Rule).	08/05/11	76 FR 47476
Final Rule; Announcement of Effective Date.	09/26/11	76 FR 59269
Final Rule; Petition for Reconsideration; Public Notice.	09/27/11	76 FR 59557
Oppositions Due Date.	10/07/11	
Final Rule; Clarification (MO&O).	10/31/11	76 FR 67070
FNPRM .....	10/31/11	76 FR 67118
Interim Final Rule; Announcement of Effective Date.	11/03/11	76 FR 68116
Final Rule; Announcement of Effective Date.	11/04/11	76 FR 68328
Final Rule; Announcement of Effective Date.	11/07/11	76 FR 68642
FNPRM Comment Period End.	12/30/11	

Action	Date	FR Cite
FNPRM .....	02/01/12	77 FR 4948
FNPRM Comment Period End.	03/19/12	
Final Rule; Correction.	03/27/12	77 FR 18106
Correcting Amendments.	06/07/12	77 FR 33662
Order (Release Date).	07/25/12	
Correcting Amendments.	10/04/12	77 FR 60630
Public Notice .....	10/29/12	77 FR 65526
Comment Period End.	11/29/12	
FNPRM .....	07/05/13	78 FR 40407
R&O .....	07/05/13	78 FR 40582
FNPRM Comment Period End.	09/18/13	
Public Notice .....	09/11/13	78 FR 55696
Public Notice .....	09/15/14	79 FR 54979
Comment Period End.	10/10/14	
Final Action (Announcement of Effective Date).	10/30/14	79 FR 64515
Final Rule Effective.	10/30/14	
FNPRM .....	11/18/15	80 FR 72029
FNPRM Comment Period End.	02/01/16	
R&O .....	03/21/16	81 FR 14984
FNPRM .....	08/24/16	81 FR 57851
FNPRM Comment Period End.	09/14/16	
NOI and FNPRM	04/12/17	82 FR 17613
NOI and FNPRM Comment Period End.	05/30/17	
R&O .....	04/13/17	82 FR 17754
R&O .....	04/27/17	82 FR 19322
FNPRM .....	04/27/17	82 FR 19347
FNPRM Comment Period End.	07/01/17	
Order .....	06/23/17	82 FR 28566
Public Notice .....	07/21/17	82 FR 33856
Public Notice Comment Period End.	07/31/17	
Public Notice Correction.	07/25/17	82 FR 34471
Public Notice Correction Comment Period End.	08/17/17	
R&O and Order ...	08/22/17	82 FR 39673
Announcement of Effective Date.	10/17/17	82 FR 48203
Public Notice; Petition for Reconsideration.	10/25/17	82 FR 49303
Oppositions Due Date.	11/20/17	
R&O .....	06/06/19	84 FR 26364
FNPRM .....	06/06/19	84 FR 26379
FNPRM Comment Period End.	08/05/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Eliot Greenwald, Deputy Chief, Disability Rights Office,

Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418–2235, Email: [eliot.greenwald@fcc.gov](mailto:eliot.greenwald@fcc.gov).  
RIN: 3060–AJ42

**292. Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services; CG Docket No. 13–24**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 225

*Abstract:* The Federal Communications Commission (FCC) initiated this proceeding in its effort to ensure that Internet-Protocol Captioned Telephone Service (IP CTS) is provided effectively and in the most efficient manner. In doing so, the FCC adopted rules to address certain practices related to the provision and marketing of IP CTS, as well as compensation of TRS providers. IP CTS is a form of relay service designed to allow people with hearing loss to speak directly to another party on a telephone call and to simultaneously listen to the other party and read captions of what that party is saying over an IP-enabled device. To ensure that IP CTS is provided efficiently to persons who need to use this service, the Commission adopted rules establishing several requirements and issued an FNPRM to address additional issues.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/05/13	78 FR 8090
Order (Interim Rule).	02/05/13	78 FR 8032
Order .....	02/05/13	78 FR 8030
Announcement of Effective Date.	03/07/13	78 FR 14701
NPRM Comment Period End.	03/12/13	
R&O .....	08/30/13	78 FR 53684
FNPRM .....	09/03/13	78 FR 54201
FNPRM Comment Period End.	11/18/13	
Petition for Reconsideration Request for Comment.	12/16/13	78 FR 76097
Petition for Reconsideration Comment Period End.	01/10/14	
Announcement of Effective Date.	07/11/14	79 FR 40003
Announcement of Effective Date.	08/28/14	79 FR 51446
Correction—Announcement of Effective Date.	08/28/14	79 FR 51450
Technical Amendments.	09/09/14	79 FR 53303

Action	Date	FR Cite
R&O and Declaratory Ruling.	06/27/18	83 FR 30082
FNPRM .....	07/18/18	83 FR 33899
Public Notice .....	08/23/18	83 FR 42630
Public Notice Opposition Period End.	09/17/18	
FNPRM Comment Period End.	11/15/18	
Announcement of Effective Date.	02/04/19	84 FR 1409
R&O .....	03/08/19	84 FR 8457
FNPRM .....	03/14/19	84 FR 9276
FNPRM Comment Period End.	04/29/19	
Petition for Recon Request for Comment.	06/18/19	84 FR 28264
Petition for Recon Comment Period End.	07/15/19	
R&O .....	01/06/20	85 FR 462
Announcement of Effective Date.	02/19/20	85 FR 9392
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Eliot Greenwald, Deputy Chief, Disability Rights Office, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418–2235, Email: [eliot.greenwald@fcc.gov](mailto:eliot.greenwald@fcc.gov).

RIN: 3060–AK01

**293. Advanced Methods To Target and Eliminate Unlawful Robocalls (CG Docket No. 17–59)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 201 and 202; 47 U.S.C. 227; 47 U.S.C. 251(e)

*Abstract:* The Telephone Consumer Protection Act of 1991 restricts the use of robocalls autodialed or prerecorded calls in certain instances. In CG Docket No. 17–59, the Commission considers rules and policies aimed at eliminating unlawful robocalling. Among the issues it examines in this docket are whether to allow carriers to block calls that purport to be from unallocated or unassigned phone numbers through the use of spoofing, whether to allow carriers to block calls based on their own analyses of which calls are likely to be unlawful and whether to establish a database of reassigned phone numbers to help prevent robocalls to consumers, who did not consent to such calls.

*Timetable:*

Action	Date	FR Cite
NPRM/NOI .....	05/17/17	82 FR 22625
2nd NOI .....	07/13/17	
NPRM Comment Period End.	07/31/17	

Action	Date	FR Cite
FNPRM .....	01/08/18	83 FR 770
R&O .....	01/12/18	83 FR 1566
2nd FNPRM .....	04/23/18	83 FR 17631
2nd FNPRM Comment Pe- riod End.	06/07/18	
2nd FNPRM Reply Comment Period End.	07/09/18	
2nd R&O .....	03/26/19	84 FR 11226
3rd FNPRM .....	06/24/19	84 FR 29478
Declaratory Ruling	06/24/19	84 FR 29387
Next Action Unde- termined.		

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* Josh Zeldis, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-0715, *Email:* josh.zeldis@fcc.gov.

*Karen Schroeder, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-0654, Email: karen.schroeder@fcc.gov.*

*Jerusha Burnett, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-0526, Email: jerusha.burnett@fcc.gov.*

*RIN: 3060-AK62*

## FEDERAL COMMUNICATIONS COMMISSION (FCC)

### Office of Engineering and Technology

#### Long-Term Actions

#### 294. Encouraging the Provision of New Technologies and Services to the Public (GN Docket No. 18-22)

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(3)

*Abstract:* In this proceeding, the FCC seeks to establish rules describing guidelines and procedures to implement the stated policy goal of section 7 to encourage the provision of new technologies and services to the public. Although the forces of competition and technological growth work together to enable the development and deployment of many new technologies and services to the public, the Commission has at times been slow to identify and take action to ensure that important new technologies or services are made available as quickly as possible. The Commission has sought to overcome these impediments by streamlining many of its processes but all too often regulatory delays can

adversely impact newly proposed technologies or services.

#### *Timetable:*

Action	Date	FR Cite
NPRM .....	04/04/18	83 FR 14395
Comment Period End.	05/04/18	
Next Action Unde- termined.		

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* Paul Murray, Attorney Advisor, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-0688, *Fax:* 202 418-7447, *Email:* paul.murray@fcc.gov.

*RIN: 3060-AK80*

#### 295. Spectrum Horizon (ET Docket No. 18-21)

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 and 152; 47 U.S.C. 154; 47 U.S.C. 157; 47 U.S.C. 201; 47 U.S.C. 301; 47 U.S.C. 302(a); 47 U.S.C. 303; 47 U.S.C. 307; 47 U.S.C. 310; 47 U.S.C. 332; sec. 76 of 1996 Telecom Act, as amended, 47 U.S.C. 302 and sec. 1.411

*Abstract:* In this proceeding, the FCC seeks to implement a plan to make the spectrum above 95 GHz more readily accessible for new innovative services and technologies. Throughout its history, when the Commission has expanded access to what was thought to be the upper reaches of the usable spectrum, new technological advances have emerged to push the boundary of usable spectrum even further. The frequencies above 95 GHz are today's spectrum horizons. The Notice sought comment on proposed rules to permit licensed fixed point-to-point operations in a total of 102.2 gigahertz of spectrum; on making 15.2 gigahertz of spectrum available for unlicensed use; and on creating a new category of experimental licenses to increase opportunities for entities to develop new services and technologies from 95 GHz to 3 THz with no limits on geography or technology.

#### *Timetable:*

Action	Date	FR Cite
NPRM .....	04/02/18	83 FR 13888
ANPRM Comment Period End.	05/02/18	
R&O .....	06/14/19	84 FR 25685
Next Action Unde- termined.		

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* Michael Ha, Deputy Division Chief, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 201 418-2099, *Email:* michael.ha@fcc.gov.

*RIN: 3060-AK81*

#### 296. • Use of the 5.850–5.925 GHz Band (ET Docket No. 19-138)

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 1; 47 U.S.C. 4(i); 47 U.S.C. 301; 47 U.S.C. 302; 47 U.S.C. 303; 47 U.S.C. 316; 47 U.S.C. 332; 47 CFR 1.411

*Abstract:* In this proceeding, the Commission proposes to amend its rules for the 5.850–5.925 GHz (5.9 GHz) band. The proposal would permit unlicensed devices to operate in the lower 45-megahertz portion of the band at 5.850–5.895 GHz under part 15 of the Commission's rules. It would also permit Intelligent Transportation System (ITS) operations in the upper 30-megahertz portion of the band at 5.895–5.925 GHz under parts 90 and 95 of the Commission's rules. ITS operations would consist of Cellular Vehicle to Everything (C-V2X) devices at 5.905–5.925 GHz, and C-V2X and/or Dedicated Short Range Communications (DSRC) devices at 5.895–5.905 GHz.

#### *Timetable:*

Action	Date	FR Cite
NPRM .....	02/06/20	85 FR 6841
NPRM Comment Period End.	03/09/20	
Next Action Unde- termined.		

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* Howard Griboff, Attorney Advisor, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-0657, *Fax:* 202 418-2824, *Email:* howard.griboff@fcc.gov.

*RIN: 3060-AK96*

## FEDERAL COMMUNICATIONS COMMISSION (FCC)

### Office of Engineering and Technology

#### Completed Actions

#### 297. Federal Earth Station—Non-Federal Fixed Satellite Service Space Stations; Spectrum for Non-Federal Space Launch Operations; ET Docket No. 13-115

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154; 47 U.S.C. 302(a); 47 U.S.C. 303; 47 U.S.C. 336

**Abstract:** The Notice of Proposed Rulemaking proposes to make spectrum allocation proposals for three different space-related purposes. The Commission makes two alternative proposals to modify the Allocation Table to provide interference protection for Fixed-Satellite Service (FSS) and Mobile-Satellite Service (MSS) earth stations operated by Federal agencies under authorizations granted by the National Telecommunications and Information Administration (NTIA) in certain frequency bands. The Commission also proposes to amend a footnote to the Allocation Table to permit a Federal MSS system to operate in the 399.9 to 400.05 MHz band; it also makes alternative proposals to modify the Allocation Table to provide access to spectrum on an interference protected basis to Commission licensees for use during the launch of launch vehicles (*i.e.*, rockets). The Commission also seeks comment broadly on the future spectrum needs of the commercial space sector. The Commission expects that, if adopted, these proposals would advance the commercial space industry and the important role it will play in our Nation's economy and technological innovation now and in the future.

**Timetable:**

Action	Date	FR Cite
NPRM ..... Resolution of NOI, 2nd R&O, NPRM, and MO&O (release date). Next Action Under- terminated.	07/01/13 12/04/19	78 FR 39200

**Regulatory Flexibility Analysis**

*Required:* Yes.

*Agency Contact:* Nicholas Oros, Electronics Engineer, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-0636, *Email:* [nicholas.oros@fcc.gov](mailto:nicholas.oros@fcc.gov), *RIN:* 3060-AK09

**298. Authorization of Radio Frequency Equipment; ET Docket No. 13-44**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 157(a); 47 U.S.C. 301; 47 U.S.C. 303(f); 47 U.S.C. 303(g); 47 U.S.C. 303(r); 47 U.S.C. 307(e); 47 U.S.C. 332

**Abstract:** The Commission is responsible for an equipment authorization program for radio

frequency (RF) devices under part 2 of its rules. This program is one of the primary means that the Commission uses to ensure that the multitude of RF devices used in the United States operate effectively without causing harmful interference and otherwise comply with the Commission rules. All RF devices subject to equipment authorization must comply with the Commission's technical requirement before they can be imported or marketed. The Commission or a Telecommunication Certification Body (TCB) must approve some of these devices before they can be imported or marketed, while others do not require such approval. The Commission last comprehensively reviewed its equipment authorization program more than 10 years ago. The rapid innovation in equipment design since that time has led to ever-accelerating growth in the number of parties applying for equipment approval. The Commission therefore believes that the time is now right for us to comprehensively review our equipment authorization processes to ensure that they continue to enable this growth and innovation in the wireless equipment market. In May 2012, the Commission began this reform process by issuing an Order to increase the supply of available grantee codes. With this Notice of Proposed Rulemaking (NPRM), the Commission continues its work to review and reform the equipment authorization processes and rules. This Notice of Proposed Rulemaking proposes certain changes to the Commission's part 2 equipment authorization processes to ensure that they continue to operate efficiently and effectively. In particular, it addresses the role of TCBs in certifying RF equipment and post-market surveillance, as well as the Commission's role in assessing TCB performance. The NPRM also addressed the role of test laboratories in the RF equipment approval process, including accreditation of test labs and the Commission's recognition of laboratory accreditation bodies, and measurement procedures used to determine RF equipment compliance. Finally, it proposes certain modifications to the rules regarding TCBs that approve terminal equipment under part 68 of the rules that are consistent with our proposed modifications to the rules for TCBs that approve RF equipment. Specifically, the Commission proposes to recognize the National Institute for Standards and Technology (NIST) as the organization that designates TCBs in the United States and to modify the rules to reference the current International

Organization for Standardization and International Electrotechnical Commission (ISO/IEC) guides used to accredit TCBs.

This Report and Order updates the Commission's radiofrequency (RF) equipment authorization program to build on the success realized by its use of Commission-recognized Telecommunications Certification Bodies (TCBs). The rules the Commission is adopting will facilitate the continued rapid introduction of new and innovative products to the market while ensuring that these products do not cause harmful interference to each other or to other communications devices and services.

**Timetable:**

Action	Date	FR Cite
NPRM .....	05/03/13	78 FR 25916
R&O .....	06/12/15	80 FR 33425
Memorandum, Opinion & Order.	06/29/16	81 FR 42264

**Regulatory Flexibility Analysis**

*Required:* Yes.

*Agency Contact:* Hugh Van Tuyl, Electronics Engineer, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7506, *Fax:* 202 418-1944, *Email:* [hugh.vantuyl@fcc.gov](mailto:hugh.vantuyl@fcc.gov), *RIN:* 3060-AK10

**299. Unlicensed White Space Devices (ET Docket No. 16-56)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 157(a); 47 U.S.C. 302(a); 47 U.S.C. 303(F); 47 U.S.C. 303(R)

**Abstract:** In this proceeding, the Commission amends part 15 subpart H of its rules to improve the quality of the geographic location and other data submitted for fixed white space devices operating on unused frequencies in the TV bands and, in the future, the new 600 MHz band for wireless services (600 MHz band). The rules are designed to improve the integrity of the white space database system and, as white space device deployments grow, to increase the confidence of all spectrum users of these frequency bands that the white space geolocation/database spectrum management scheme fully protects licensees and other authorized users. The rules eliminate the professional installer option for fixed white space devices and require that each fixed white space device incorporate a geolocation capability to determine its location. The proceeding also proposes

options to accommodate fixed white space device installations in locations where an internal geo-location capability is not able to provide this information. Further, we clarify and modify other rules regarding fixed white space device registration to ensure the integrity of the information provided by white space device users.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/22/16	81 FR 15210
NPRM Comment Period End.	05/16/16	
R&O .....	07/19/19	84 FR 34792

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Hugh Van Tuyl, Electronics Engineer, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7506, *Fax:* 202 418-1944, *Email:* hugh.vantuyl@fcc.gov.  
*RIN:* 3060-AK46

**300. Amendment of Parts 1, 2, 15, 90, and 95 of the Commission's Rules To Permit Radar Services in the 76-81 GHz Band (ET Docket No. 15-26)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 and 152; 47 U.S.C. 154(i); 47 U.S.C. 301; 47 U.S.C. 302(a); 47 U.S.C. 303(f)

*Abstract:* In this Report and Order, the FCC establishes a flexible and streamlined regulatory framework for radar applications that will operate within the 76-81 GHz band. Specifically, the FCC give vehicular radars and certain airport-based radars protection from harmful interference as well as a contiguous five gigahertz allocation, facilitating the development and deployment of new safety devices. Doing so also harmonizes FCC rules with international efforts to create a global allocation for vehicular radars, while promoting efficient use of spectrum by consolidating such radars into a single band. In addition, the FCC established a comprehensive and consistent set of rules and policies to govern the operation of vehicular radars and certain airport-based radars in the 76-81 GHz band.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/06/15	80 FR 12120
NPRM Comment Period End.	04/06/15	
R&O .....	09/20/17	82 FR 43865

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Howard Griboff, Attorney Advisor, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-0657, *Fax:* 202 418-2824, *Email:* howard.griboff@fcc.gov.  
*RIN:* 3060-AK82

**FEDERAL COMMUNICATIONS COMMISSION (FCC)**

*International Bureau*

*Long-Term Actions*

**301. International Settlements Policy Reform (IB Docket No. 11-80)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 to 152; 47 U.S.C. 154; 47 U.S.C. 201 to 205; 47 U.S.C. 208; 47 U.S.C. 211; 47 U.S.C. 214; 47 U.S.C. 303(r); 47 U.S.C. 309; 47 U.S.C. 403

*Abstract:* The FCC is reviewing the International Settlements Policy (ISP). It governs the ways U.S. carriers negotiate with foreign carriers for the exchange of international traffic and is the structure by which the Commission has sought to respond to concerns that foreign carriers with market power are able to take advantage of the presence of multiple U.S. carriers serving a particular market. In 2011, the FCC released an NPRM that proposed to further deregulate the international telephony market and enable U.S. consumers to enjoy competitive prices when they make calls to international destinations. First, it proposed to remove the ISP from all international routes except Cuba. Second, the FCC sought comment on a proposal to enable the Commission to better protect U.S. consumers from the effects of anticompetitive conduct by foreign carriers in instances necessitating Commission intervention. In 2012, the FCC adopted a Report and Order that eliminated the ISP on all routes but maintained the nondiscrimination requirement of the ISP on the U.S.-Cuba route and codified it in 47 CFR 63.22(f). In the Report and Order, the FCC also adopted measures to protect U.S. consumers from anticompetitive conduct by foreign carriers. In 2016, the FCC released an FNPRM seeking comment on removing the discrimination requirement on the U.S.-Cuba route.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/13/11	76 FR 42625

Action	Date	FR Cite
NPRM Comment Period End.	09/02/11	
Report and Order	02/15/13	78 FR 11109
FNPRM .....	03/04/16	81 FR 11500
FNPRM Comment Period End.	04/18/16	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* David Krech, Assoc. Chief, Telecommunications & Analysis Division, Federal Communications Commission, International Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7443, *Fax:* 202 418-2824, *Email:* david.krech@fcc.gov.  
*RIN:* 3060-AJ77

**302. Update to Parts 2 and 25 Concerning Nongeostationary, Fixed-Satellite Service Systems, and Related Matters: IB Docket No. 16-408**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154(i); 47 U.S.C. 303; 47 U.S.C. 316

*Abstract:* On January 11, 2017, the Commission began a rulemaking to update its rules and policies concerning non-geostationary-satellite orbit (NGSO), fixed-satellite service (FSS) systems and related matters. The proposed changes would, among other things, provide for more flexible use of the 17.8-20.2 GHz bands for FSS, promote shared use of spectrum among NGSO FSS satellite systems, and remove unnecessary design restrictions on NGSO FSS systems. The Commission subsequently adopted a Report and Order establishing new sharing criteria among NGSO FSS systems and providing additional flexibility for FSS spectrum use. The Commission also released a Further Notice of Proposed Rulemaking proposing to remove the domestic coverage requirement for NGSO FSS systems.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/11/17	82 FR 3258
NPRM Comment Period End.	04/10/17	
FNPRM .....	11/15/17	82 FR 52869
R&O .....	12/18/17	82 FR 59972
FNPRM Comment Period End.	01/02/18	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Clay DeCell, Attorney Advisor, Federal Communications Commission, 445 12th

Street SW, Washington, DC 20554,  
Phone: 202 418-0803, Email:  
clay.decell@fcc.gov.  
RIN: 3060-AK59

**303. Amendment of Parts 2 and 25 of the FCC Rules To Facilitate the Use of Earth Stations in Motion Communicating With Geostationary Orbit Space Stations in FSS Bands: IB Docket No. 17-95**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154(i); 47 U.S.C. 157(a); 47 U.S.C. 303; 47 U.S.C. 308(b); 47 U.S.C. 316

*Abstract:* In June 2017, the Commission began a rulemaking to streamline, consolidate, and harmonize rules governing earth stations in motion (ESIMs) used to provide satellite-based services on ships, airplanes and vehicles communicating with geostationary-satellite orbit (GSO), fixed-satellite service (FSS) satellite systems. In September 2018, the Commission adopted rules governing communications of ESIMs with GSO satellites. These rules addressed communications in the conventional C-, Ku-, and Ka-bands, as well as portions of the extended Ku-band. At the same time, the Commission also released a Further Notice of Proposed Rulemaking that sought comment on allowing ESIMs to operate in all of the frequency bands in which earth stations at fixed locations operating in GSO FSS satellite networks can be blanket-licensed. Specifically, comment was sought on expanding the frequencies available for communications of ESIMs with GSO FSS satellites to include the following frequency bands: 10.7–10.95 GHz, 11.2–11.45 GHz, 17.8–18.3 GHz, 18.8–19.3 GHz, 19.3–19.4 GHz, 19.6–19.7 GHz (space-to-Earth); and 28.6–29.1 GHz (Earth-to-space).

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/16/17	82 FR 27652
NPRM Comment Period End.	08/30/17	
OMB-approval for Information Collection of R&O Comment Period End.	08/28/18	
FNPRM .....	02/22/19	84 FR 5654
R&O .....	03/25/19	84 FR 11090
FNPRM Comment Period End.	04/28/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Cindy Spiers, Attorney Advisor, Federal

Communications Commission, 445 12th Street SW, Washington, DC 20554,  
Phone: 202 418-1593, Email:  
cindy.spiers@fcc.gov.  
RIN: 3060-AK84

**304. Further Streamlining Part 25 Rules Governing Satellite Services: IB Docket No. 18-314**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. secs. 154(i); 47 U.S.C. 161; 47 U.S.C. 303; 47 U.S.C. 316

*Abstract:* Under the Commission's rules, satellite operators must follow separate application and authorization processes for the satellites and earth stations that make up their networks and have no option for a single, unified network license. In this Notice of Proposed Rulemaking, the FCC proposes to create a new, optional, unified license to include both space stations and earth stations operating in a geostationary-satellite orbit, fixed-satellite service (GSO FSS) satellite network. In addition, the Commission proposes to repeal or modify unnecessarily burdensome rules in Part 25 governing satellite services, such as annual reporting requirements. These proposals would greatly simplify the Commission's licensing and regulation of satellite systems.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/31/19	84 FR 638
NPRM Comment Period End.	03/18/19	
NPRM Reply Comment Period End.	04/16/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Clay DeCell, Attorney Advisor, Federal Communications Commission, 445 12th Street, Washington, DC 20554, Phone: 202 418-0803, Email: clay.decell@fcc.gov.  
RIN: 3060-AK87

**305. Streamlining Licensing Procedures for Small Satellites; IB Docket No. 18-86**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154(i); 47 U.S.C. 157; 47 U.S.C. 158; 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 308; 47 U.S.C. 309

*Abstract:* On April 17, 2018, the Commission released a Notice of Proposed Rulemaking (NPRM)

proposing to modify the Commission's part 25 satellite licensing rules to create a new category of application specific to small satellites. The Commission sought comment on criteria that would define this new category and proposed that applicants meeting the criteria could take advantage of a simplified application, faster processing, and lower fees, among other things. The proposed streamlined licensing process was developed based on the features and characteristics that typically distinguish small satellite operations from other types of satellite operations, such as shorter orbital lifetime and less intensive frequency use. The NPRM detailed this small satellite procedure, which would serve as an optional alternative to existing procedures for authorization of small satellites. The NPRM also provided background information on the Commission's other processes for licensing and authorizing small satellites, including under the experimental (part 5) and amateur (part 97) rules, although no changes were proposed to either of those parts. The NPRM also sought comment on topics related to spectrum use by small satellites. The Commission asked for comment on typical small satellite frequency use characteristics, how to facilitate compatibility with Federal operations, use of particular spectrum for inter-satellite links by small satellites, and other issues related to operations by small satellites in frequency bands. Finally, the NPRM sought comment on the appropriate application fee that would apply to the proposed optional part 25 streamlined process. The Commission proposed a \$30,000 application fee. It noted that any changes to the annual regulatory fees applicable to the small satellites authorized under the streamlined process would be addressed through the separate annual proceeding for review of regulatory fees.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/18/18	83 FR 24064
NPRM Comment Period End.	08/07/18	
R&O (adopted date).	08/01/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Merissa Velez, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-0751, Email: merissa.velez@fcc.gov.



RIN: 3060-AK88

**306. Facilitating the Communications of Earth Stations in Motion With Non-Geostationary Orbit Space Stations: IB Docket No. 18-315**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154(i); 47 U.S.C. 157(a); 47 U.S.C. 303; 47 U.S.C. 308(b); 47 U.S.C. 316

*Abstract:* In November 2018, the Commission adopted a notice of proposed rulemaking that proposed to expand the scope of the Commission's rules governing ESIMs operations to cover communications with NGSO FSS satellites. Comment was sought on establishing a regulatory framework for communications of ESIMs with NGSO FSS satellites that would be analogous to that which exists for ESIMs communicating with GSO FSS satellites. In this context, comment was sought on: (1) Allowing ESIMs to communicate in many of the same conventional Ku-band, extended Ku-band, and Ka-band frequencies that were allowed for communications of ESIMs with GSO FSS satellites (with the exception of the 18.6–18.8 GHz and 29.25–29.5 GHz frequency bands); (2) extending blanket licensing to ESIMs communicating with NGSO satellites; and (3) revisions to specific provisions in the Commission's rules to implement these changes. The specific frequency bands for communications of ESIMs with NGOS FSS satellites on which comment was sought are as follows: 10.7–11.7 GHz; 11.7–12.2 GHz; 14.0–14.5 GHz; 17.8–18.3 GHz; 18.3–18.6 GHz; 18.8–19.3 GHz; 19.3–19.4 GHz; 19.6–19.7 GHz; 19.7–20.2 GHz; 28.35–28.6 GHz; 28.6–29.1 GHz; and 29.5–30.0 GHz.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/28/18	83 FR 67180
NPRM Comment Period End.	03/13/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Cindy Spiers, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-1593, Email: cindy.spiers@fcc.gov.

RIN: 3060-AK89

**307. Mitigation of Orbital Debris in the New Space Age: IB Docket No. 18-313**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154; 47 U.S.C. 157; 47 U.S.C. 301; 47 U.S.C. 302; 47 U.S.C. 303; 47 U.S.C. 307; 47 U.S.C. 308; 47 U.S.C. 309; 47 U.S.C. 310; 47 U.S.C. 319; 47 U.S.C. 332; 47 U.S.C. 336; 47 U.S.C. 605; 47 U.S.C. 721

*Abstract:* The Commission's current orbital debris rules were first adopted in 2004. Since then, significant changes have occurred in satellite technologies and market conditions, particularly in Low Earth Orbit, *i.e.*, below 2000 kilometers altitude. These changes include the increasing use of lower cost small satellites and proposals to deploy large constellations of non-geostationary satellite orbit (NGSO) systems, some involving thousands of satellites.

The NPRM proposes changes to improve disclosure of debris mitigation plans. The NPRM also makes proposals and seeks comment related to satellite disposal reliability and methodology, appropriate deployment altitudes in low-Earth-orbit, and on-orbit lifetime, with a particular focus on large NGSO satellite constellations. Other aspects of the NPRM include new rule proposals for geostationary orbit satellite (GSO) license term extension requests, and consideration of disclosure requirements related to several emerging technologies and new types of commercial operations, including rendezvous and proximity operations.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/19/19	84 FR 4742
NPRM Comment Period End.	05/06/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Merissa Velez, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-0751, Email: merissa.velez@fcc.gov.

RIN: 3060-AK90

**FEDERAL COMMUNICATIONS COMMISSION (FCC)**

*Media Bureau*

*Long-Term Actions*

**308. Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard (GN Docket No. 16-142)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 157; 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 307 to 309; 47 U.S.C. 316; 47 U.S.C. 319; 47 U.S.C. 325(b); 47 U.S.C. 336; 47 U.S.C. 399(b); 47 U.S.C. 403; 47 U.S.C. 534; 47 U.S.C. 535

*Abstract:* In this proceeding, the Commission seeks to authorize television broadcasters to use the "Next Generation" ATSC 3.0 broadcast television transmission standard on a voluntary, market-driven basis, while they continue to deliver current-generation digital television broadcast service to their viewers. In the Report and Order, the Commission adopted rules to afford broadcasters flexibility to deploy ATSC 3.0-based transmissions, while minimizing the impact on, and costs to, consumers and other industry stakeholders.

The FNPRM sought comment on three topics: (1) Issues related to the local simulcasting requirement, (2) whether to let broadcasters use vacant channels in the broadcast band, and (3) the import of the Next Gen standard on simulcasting stations.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/10/17	82 FR 13285
NPRM Comment Period End.	05/09/17	
FNPRM .....	12/20/17	82 FR 60350
R&O .....	02/02/18	83 FR 4998
FNPRM Comment Period End.	02/20/18	
FNPRM Reply Comment Period End.	03/20/18	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Evan Baranoff, Attorney, Policy Division, Federal Communications Commission, Media Bureau, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-7142, Email: evan.baranoff@fcc.gov.

RIN: 3060-AK56

**309. Electronic Delivery of MVPD Communications (MB Docket No. 17-317)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C., sec. 151

*Abstract:* In this proceeding, the Commission addresses ways to modernize certain notice provisions in part 76 of the Commission's rules governing multichannel video and cable television service. The Commission considers allowing various types of written communications from cable



operators to subscribers to be delivered electronically. Additionally, the Commission considers permitting cable operators to reply to consumer requests or complaints by email in certain circumstances. The Commission also evaluates updating the requirement in the Commission's rules that requires broadcast television stations to send carriage election notices via certified mail.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/16/18	83 FR 2119
NPRM Comment Period End.	02/15/18	
R&O and FNPRM	08/30/19	84 FR 45703
Next Action Under-terminated.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Lyle Elder, Attorney, Policy Division, Media Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–2120, *Email:* lyle.elder@fcc.gov.

*RIN:* 3060–AK70

**310. 2018 Quadrennial Regulatory Review of the Commission's Broadcast Ownership Rules (MB Docket 18–349)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 152(a); 47 U.S.C. 154(i); 47 U.S.C. 257; 47 U.S.C. 303; 47 U.S.C. 307; 47 U.S.C. 309 and 310; 47 U.S.C. 403; sec. 202(h) of the Telecommunications Act

*Abstract:* Section 202(h) of the Telecommunications Act of 1996 requires the Commission to review its broadcast ownership rules every 4 years and to determine whether any such rules are necessary in the public interest as the result of competition. The rules subject to review in the 2018 quadrennial review are the Local Radio Ownership Rule, the Local Television Ownership Rule, and the Dual Network Rule. The Commission also sought comment on potential pro-diversity proposals including extending cable procurement requirements to broadcasters, adopting formulas aimed at creating media ownership limits that promote diversity, and developing a model for market-based, tradeable diversity credits to serve as an alternative method for setting ownership limits.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/28/19	84 FR 6741

Action	Date	FR Cite
Next Action Under-terminated.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Brendan Holland, Chief, Industry Analysis Division, Media Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–2486, *Email:* brendan.holland@fcc.gov.

*RIN:* 3060–AK77

**311. Children's Television Programming Rules (MB Docket 18–202)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 303; 47 U.S.C. 303b; 47 U.S.C. 307; 47 U.S.C. 336

*Abstract:* The Children's Television Act (CTA) of 1990 requires that the Commission consider, in its review of television license renewals, the extent to which the licensee has served the educational and informational needs of children through its overall programming, including programming specifically designed to serve such needs. The Commission adopted rules implementing the CTA in 1991 and revised these rules in 1996, 2004, and 2006. In this proceeding, the Commission proposes to revise the children's television programming rules to modify outdated requirements and to give broadcasters greater flexibility in serving the educational and informational needs of children.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/25/18	83 FR 35158
NPRM Comment Period End.	09/28/18	
R&O .....	08/16/19	84 FR 41947
FNPRM .....	08/16/19	84 FR 41949
FNPRM Comment Period End.	09/16/19	
FNPRM Reply Comment Period End.	10/15/19	
Next Action Under-terminated.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Kathy Berthot, Attorney, Policy Division Media Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–7454, *Email:* kathy.berthot@fcc.gov.

*RIN:* 3060–AK78

**312. Amendment of Part 74 of the Commission's Rules Regarding FM Translator Interference (MB Docket 18–119)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i) and 154(j); 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 307 to 309; 47 U.S.C. 316; 47 U.S.C. 319

*Abstract:* In this proceeding, the Commission proposes to streamline the rules relating to interference caused by FM translators and expedite the translator complaint resolution process. The rule changes are intended to limit or avoid protracted and contentious interference resolution disputes, provide translator licensees both additional flexibility to remediate interference and additional investment certainty, and allow earlier and expedited resolution of interference complaints by affected stations.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/06/18	83 FR 26229
NPRM Comment Period End.	07/06/18	
R&O .....	06/14/19	84 FR 27734
Next Action Under-terminated.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Christine Goepp, Attorney, Audio Div., Media Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–7834, *Email:* christine.geopp@fcc.gov.

*RIN:* 3060–AK79

**313. Equal Employment Opportunity Enforcement (MB Docket 19–177)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 334; 47 U.S.C. 554

*Abstract:* In this proceeding, the Commission seeks comment on ways in which it can make improvements to equal employment opportunity (EEO) compliance and enforcement.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/22/19	84 FR 35063
Next Action Under-terminated.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Radhika Karmarker, Attorney Advisor, IAD, Federal Communications Commission, 445 12th

Street SW, Washington, DC 20554,  
Phone: 202 418–1523, Email:  
radhika.karmarkar@fcc.gov.  
RIN: 3060–AK86

### 314. • Use of Common Antenna Site (MB Docket No. 19–282)

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 303(r); 47 U.S.C. 307; 47 U.S.C. 309

*Abstract:* In this proceeding, the Commission seeks comment on whether the common antenna siting rules for FM and TV broadcaster applicants and licensees are necessary given the current broadcasting marketplace.

*Timetable:*

Action	Date	FR Cite
R&O .....	08/16/19	84 FR 41947
FNPRM .....	11/06/19	84 FR 59756
FNPRM Comment Period End.	12/06/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Kim Matthews, Attorney, Policy Division, Federal Communications Commission, Media Bureau, 445 12th Street SW, Washington, DC 20554, Phone: 202 418–2154, Fax: 202 418–2053, Email: kim.matthews@fcc.gov.

RIN: 3060–AK99

### FEDERAL COMMUNICATIONS COMMISSION (FCC)

*Office of Managing Director*

Long-Term Actions

### 315. Assessment and Collection of Regulatory Fees

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 159

*Abstract:* Section 9 of the Communications Act of 1934, as amended (47 U.S.C. 159), requires the Federal Communications Commission to recover the cost of its activities by assessing and collecting annual regulatory fees from beneficiaries of the activities.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/06/17	82 FR 26019
R&O .....	09/22/17	82 FR 44322
NPRM .....	06/14/18	83 FR 27846
NPRM Comment Period End.	06/21/18	
R&O .....	09/18/18	83 FR 47079

Action	Date	FR Cite
NPRM .....	06/05/19	84 FR 26234
NPRM Comment Period End.	06/07/19	
R&O .....	09/26/19	84 FR 50890
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Roland Helvajian, Office of the Managing Director, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418–0444, Email: roland.helvajian@fcc.gov.

RIN: 3060–AK64

### FEDERAL COMMUNICATIONS COMMISSION (FCC)

*Public Safety and Homeland Security Bureau*

Long-Term Actions

### 316. Wireless E911 Location Accuracy Requirements: PS Docket No. 07–114

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 332

*Abstract:* This rulemaking is related to the proceedings in which the FCC previously acted to improve the quality of all emergency services. Wireless carriers must provide specific automatic location information in connection with 911 emergency calls to Public Safety Answering Points (PSAPs). Wireless licensees must satisfy enhanced 911 location accuracy standards at either a county-based or a PSAP-based geographic level.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/20/07	72 FR 33948
R&O .....	02/14/08	73 FR 8617
Public Notice .....	09/25/08	73 FR 55473
FNPRM; NOI .....	11/02/10	75 FR 67321
Public Notice .....	11/18/09	74 FR 59539
2nd R&O .....	11/18/10	75 FR 70604
Second NPRM .....	08/04/11	76 FR 47114
Second NPRM Comment Period End.	11/02/11	
Final Rule .....	04/28/11	76 FR 23713
NPRM, 3rd R&O, and 2nd FNPRM.	09/28/11	76 FR 59916
3rd FNPRM .....	03/28/14	79 FR 17820
Order Extending Comment Period.	06/10/14	79 FR 33163
3rd FNPRM Comment Period End.	07/14/14	
Public Notice (Release Date).	11/20/14	

Action	Date	FR Cite
Public Notice Comment Period End.	12/17/14	
4th R&O .....	03/04/15	80 FR 11806
Final Rule .....	08/03/15	80 FR 45897
Order Granting Waiver.	07/10/17	
NPRM .....	09/26/18	83 FR 54180
4th NPRM .....	03/18/19	84 FR 13211
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Brenda Boykin, Attorney Advisor, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418–2062, Email: brenda.boykin@fcc.gov.

RIN: 3060–AJ52

### 317. Improving Outage Reporting for Submarine Cables and Enhancing Submarine Cable Outage Data; GN Docket No. 15–206

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 34 to 39; 47 U.S.C. 301

*Abstract:* This proceeding takes steps toward assuring the reliability and resiliency of submarine cables, a critical piece of the Nation's communications infrastructure, by proposing to require submarine cable licensees to report to the Commission when outages occur and communications are disrupted. The Commission's intent is to enhance national security and emergency preparedness by these actions.

*Timetable:*

Action	Date	FR Cite
NPRM (Release Date).	09/18/15	
R&O .....	06/24/16	81 FR 52354
Petitions for Recon.	09/08/16	
Petitions for Recon—Public Comment.	10/17/16	81 FR 75368
Order on Recon.	12/20/19	
Order on Recon ..	12/20/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Brenda Villanueva, Attorney Advisor, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418–7005, Email: brenda.villanueva@fcc.gov.

RIN: 3060-AK39

**318. Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications: PS Docket No. 15-80***E.O. 13771 Designation:* Independent agency.*Legal Authority:* Sec. 1, 4(i), 4(j), 4(o), 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 307, 309(a), 309(j); 316, 332, 403, 615a-1, and 615c of Pub. L. 73-416, 4 Stat. 1064, as amended; and section 706 of Pub. L. 104-104, 110 Stat. 56; 47 U.S.C. 151, 154(i)-(j) & (o), 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 307; 309(a), 309(j), 316, 332, 403, 615a-1, 615c, and 1302, unless otherwise noted*Abstract:* The 2004 Report and Order (R&O) extended the Commission's communication disruptions reporting rules to non-wireline carriers and streamlined reporting through a new electronic template (see docket ET Docket 04-35). In 2015, this proceeding, PS Docket 15-80, was opened to amend the original communications disruption reporting rules from 2004 in order to reflect technology transitions observed throughout the telecommunications sector. The Commission seeks to further study the possibility to share the reporting database information and access with State and other Federal entities. In May 2016, the Commission released a Report and Order, FNPRM, and Order on Reconsideration (see also Dockets 11-82 and 04-35). The R&O adopted rules to update the part 4 requirements to reflect technology transitions. The FNPRM sought comment on sharing information in the reporting database. Comments and replies were received by the Commission in August and September 2016.*Timetable:*

Action	Date	FR Cite
NPRM, 2nd R&O, Order on Recon.	06/16/15	80 FR 34321
NPRM Comment Period End.	07/31/15	
R&O .....	07/12/16	81 FR 45055
FNPRM, 1 Part 4 R&O, Order on Recon.	08/11/16	81 FR 45059
Order Denying Reply Comment Deadline Extension Request.	09/08/16	
FNPRM Comment Period End.	09/12/16	
Announcement of Effective Date for Rule Changes in R&O.	06/22/17	82 FR 28410
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required:* Yes.*Agency Contact:* Robert Finley, Attorney Advisor, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7835, *Email:* robert.finley@fcc.gov.

RIN: 3060-AK40

**319. New Part 4 of the Commission's Rules Concerning Disruptions to Communications; ET Docket No. 04-35***E.O. 13771 Designation:* Independent agency.*Legal Authority:* 47 U.S.C. 154 and 155; 47 U.S.C. 201; 47 U.S.C. 251; 47 U.S.C. 307; 47 U.S.C. 316*Abstract:* The proceeding creates a new part 4 in title 47 and amends part 63.100. The proceeding updates the Commission's communication disruptions reporting rules for wireline providers formerly in 47 CFR 63.100 and extends these rules to other non-wireline providers. Through this proceeding, the Commission streamlines the reporting process through an electronic template. The Report and Order received several petitions for reconsideration, of which two were eventually withdrawn. In 2015, seven were addressed in an Order on Reconsideration and in 2016 another petition was addressed in an Order on Reconsideration. One petition (CPUC Petition) remains pending regarding NORS database sharing with States, which is addressed in a separate proceeding, PS Docket 15-80. To the extent the communication disruption rules cover VoIP, the Commission studies and addresses these questions in a separate docket, PS Docket 11-82.

In May 2016, the Commission released a Report and Order, FNPRM, and Order on Reconsideration (see Dockets 11-82 and 15-80). The Order on Reconsideration addressed outage reporting for events at airports, and the FNPRM sought comment on database sharing. The Commission received comments and replies in August and September 2016.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/26/04	69 FR 15761
R&O .....	11/26/04	69 FR 68859
Denial for Petition for Partial Stay.	12/02/04	
Seek Comment on Petition for Recon.	02/02/10	
Reply Period End	03/19/10	

Action	Date	FR Cite
Seek Comment on Broadband and Inter-connected VOIP Service Providers.	07/02/10	
Reply Period End 2nd R&O, and Order on Recon, NPRM.	08/16/12 06/16/15	80 FR 34321
R&O .....	07/12/16	81 FR 45055
FNPRM, 1 Part 4 R&O, Order on Recon.	08/11/16	81 FR 45095, 81 FR 45055
Order Denying Extension of Time to File Reply Comments.	09/08/16	
Announcement of Effective Date for Rule Changes in R&O.	06/22/17	82 FR 28410
Second Further Notice of Proposed Rule-making.	To Be Determined	

*Regulatory Flexibility Analysis Required:* Yes.*Agency Contact:* Robert Finley, Attorney Advisor, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7835, *Email:* robert.finley@fcc.gov.

RIN: 3060-AK41

**320. Wireless Emergency Alerts (WEA): PS Docket No. 15-91***E.O. 13771 Designation:* Independent agency.*Legal Authority:* Pub. L. 109-347, title VI; 47 U.S.C. 151; 47 U.S.C. 154(i)*Abstract:* This proceeding was initiated to improve Wireless Emergency Alerts (WEA) messaging, ensure that WEA alerts reach only those individuals to whom they are relevant, and establish an end-to-end testing program based on advancements in technology.*Timetable:*

Action	Date	FR Cite
NPRM .....	11/19/15	80 FR 77289
NPRM Comment Period End.	01/13/16	
NPRM Reply Comment Period End.	02/12/16	
Order .....	11/01/16	81 FR 75710
FNPRM .....	11/08/16	81 FR 78539
Comment Period End.	12/08/16	
Petition for Recon	12/19/16	81 FR 91899
Order on Recon ..	12/04/17	82 FR 57158

Action	Date	FR Cite
2nd R&O and 2nd Order on Recon.	02/28/18	83 FR 8619
Public Notice .....	04/26/18	83 FR 18257
Public Notice Comment Period End.	05/29/18	
Public Notice Reply Comment Period End.	06/11/18	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* James Wiley, Attorney Advisor, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-1678, Email: james.wiley@fcc.gov.  
RIN: 3060-AK54

### 321. Blue Alert EAS Event Code

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 and 152; 47 U.S.C. 154(i) and 154(o); 47 U.S.C. 301; 47 U.S.C. 303(r) and (v); 47 U.S.C. 307; 47 U.S.C. 309; 47 U.S.C. 335; 47 U.S.C. 403; 47 U.S.C. 544(g); 47 U.S.C. 606 and 615

*Abstract:* In 2015, Congress adopted the Blue Alert Act to help the States provide effective alerts to the public and law enforcement when police and other law enforcement officers are killed or are in danger. To ensure that these State plans are compatible and integrated throughout the United States as envisioned by the Blue Alert Act, the Blue Alert Coordinator made a series of recommendations in a 2016 Report to Congress. Among these recommendations, the Blue Alert Coordinator identified the need for a dedicated EAS event code for Blue Alerts, and noted the alignment of the EAS with the implementation of the Blue Alert Act. On June 22, 2017, the FCC released an NPRM proposing to revise the EAS rules to adopt a new event code, which would allow transmission of Blue Alerts to the public over the EAS and thus satisfy the stated need for a dedicated EAS event code. On December 14, 2017, the Commission released an Order adopting a new Blue Alert EAS Code-BLU. EAS participants must be able to implement the BLU code by January 19, 2019. BLU alerts must be available to wireless emergency alerts by July, 2019.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/30/17	82 FR 29811

Action	Date	FR Cite
NPRM Comment Period End.	07/31/17	
NPRM Reply Comment Period End.	08/29/17	
Order .....	12/14/18	83 FR 2557
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Linda Pinto, Attorney Advisor, Policy and Licensing Division, PSHSB, Federal Communications Commission, 445 12th Street SW, Washington, DC 21043, Phone: 202 418-7490, Email: linda.pinto@fcc.gov.  
RIN: 3060-AK63

### FEDERAL COMMUNICATIONS COMMISSION (FCC)

#### Wireless Telecommunications Bureau

#### Final Rule Stage

### 322. Expanding Flexible Use of the 3.7 to 4.2 GHz Band: GN Docket No. 18-122

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 to 153; 47 U.S.C. 154(i); 47 U.S.C. 157; 47 U.S.C. 201; 47 U.S.C. 301 to 304; 47 U.S.C. 307 to 310; 47 U.S.C. 1302; . . .

*Abstract:* In this proceeding, the Commission is pursuing the joint goals of making spectrum available for new wireless uses, while balancing desired speed to the market, efficiency of use, and effectively accommodating incumbent Fixed Satellite Service (FSS) and Fixed Service (FS) operations in the band. To gain a clearer understanding of the operations of current users in the band, the Commission collects information on current FSS uses. The Commission then seeks comment on various proposals for transitioning all or part of the band for flexible use, terrestrial mobile spectrum, with clearing for flexible use beginning at 3.7 GHz and moving higher up in the band as more spectrum is cleared. The Commission also seeks comment on potential changes to the Commission's rules to promote more efficient and intensive fixed use of the band on a shared basis starting in the top segment of the band and moving down the band. To add a mobile, except aeronautical mobile, allocation and to develop rules that would enable the band to be transitioned for more intensive fixed and flexible uses, the Commission encourages commenters to discuss and quantify the costs and benefits

associated with any proposed approach along with other helpful technical or procedural details.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/29/18	83 FR 44128
NPRM Comment Period End.	11/27/18	
Public Notice .....	05/20/19	84 FR 22733
Certifications and Data Filing Deadline.	05/28/19	
Public Notice .....	06/03/19	84 FR 22514
Public Notice Comment Period End.	07/03/19	
Public Notice Reply Comment Period End.	07/18/19	
R&O .....	06/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Peter Daronco, Deputy Division Chief, Broadband Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-7235, Email: peter.daronco@fcc.gov.  
RIN: 3060-AK76

### FEDERAL COMMUNICATIONS COMMISSION (FCC)

#### Wireless Telecommunications Bureau

#### Long-Term Actions

### 323. Universal Service Reform Mobility Fund (WT Docket No. 10-208)

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 155; 47 U.S.C. 160; 47 U.S.C. 201; 47 U.S.C. 205; 47 U.S.C. 225; 47 U.S.C. 254; 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 303(c); 47 U.S.C. 303(f); 47 U.S.C. 303(r); 47 U.S.C. 303(y); 47 U.S.C. 309; 47 U.S.C. 310

*Abstract:* This proceeding establishes the Mobility Fund, which the Commission is implementing in two phases. Mobility Fund Phase I consisted of two reverse auctions that provided initial infusions of funds toward solving persistent gaps in mobile services through targeted, one-time support for the build-out of current and next-generation wireless infrastructure in areas where these services are unavailable. The Mobility Fund Phase II (MF-II) reverse auction aims to provide support funds over a 10-year term to support build-out of current and next-generation wireless infrastructure in areas where unsubsidized services are

unavailable. MF–II began with a one-time collection of existing wireless broadband coverage data from current providers to determine the areas in which qualified service has been deployed, which data was used to create a map of areas presumptively eligible for MF–II support. Entities could challenge asserted unsubsidized 4G LTE coverage through the Mobility Fund Phase II challenge process, and providers may file response data countering challenges. The results of the challenge process will determine the final list of areas eligible for funding through the MF–II auction.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/14/10	75 FR 67060
NPRM Comment Period End.	01/18/11	
R&O .....	11/29/11	76 FR 73830
FNPRM .....	12/16/11	76 FR 78384
R&O .....	12/28/11	76 FR 81562
2nd R&O .....	07/03/12	77 FR 39435
4th Order on Recon.	08/14/12	77 FR 48453
FNPRM .....	07/09/14	79 FR 39196
R&O, Declaratory Ruling, Order, MO&O, and 7th Order on Recon.	07/09/14	79 FR 39163
FNPRM Comment Period End.	09/08/14	
R&O .....	10/07/16	81 FR 69696
FNPRM .....	10/07/16	81 FR 69772
FNPRM .....	03/13/17	82 FR 13413
R&O .....	03/28/17	82 FR 15422
R&O Correction ...	04/04/17	82 FR 16297
Order on Recon and 2nd R&O.	09/08/17	82 FR 42473
2nd Order on Recon.	04/25/18	83 FR 17934
Order and MO&O	08/30/18	83 FR 44241
NPRM .....	08/30/18	83 FR 44254
3rd R&O .....	03/06/19	84 FR 8003
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Audra Hale-Maddox, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–2109, *Email:* [audra.hale-maddox@fcc.gov](mailto:audra.hale-maddox@fcc.gov), *RIN:* 3060–AJ58

**324. Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions (GN Docket No. 12–268)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 309(j)(8)(G); 47 U.S.C. 1452

*Abstract:* In February 2012, the Middle Class Tax Relief and Job Creation Act was enacted (Pub. L. 112–

96, 126 Stat. 156 (2012)). Title VI of that statute, commonly known as the Spectrum Act, provides the Commission with the authority to conduct incentive auctions to meet the growing demand for wireless broadband. Pursuant to the Spectrum Act, the Commission may conduct incentive auctions that will offer new initial spectrum licenses subject to flexible-use service rules on spectrum made available by licensees that voluntarily relinquish some or all of their spectrum usage rights in exchange for a portion, based on the value of the relinquished rights as determined by an auction, of the proceeds of bidding for the new licenses. In addition to granting the Commission general authority to conduct incentive auctions, the Spectrum Act requires the Commission to conduct an incentive auction of broadcast TV spectrum and sets forth special requirements for such an auction.

The Spectrum Act requires that the BIA consist of a reverse auction “to determine the amount of compensation that each broadcast television licensee would accept in return for voluntarily relinquishing some or all of its spectrum usage rights” and a forward auction of licenses in the reallocated spectrum for flexible-use services, including mobile broadband. Broadcast television licensees who elected to voluntarily participate in the auction had three bidding options: Go off-the-air, share spectrum with another broadcast television licensee, or move channels to the upper or lower VHS band in exchange for receiving part of the proceeds from auctioning that spectrum to wireless providers. The Spectrum Act also authorized the Commission to reorganize the 600 MHz band following the BIA including, as necessary, reassigning full power and Class A television stations to new channels in order to clear the spectrum sold in the BIA. That post-auction reorganization (known as the repack) is currently underway and all of the stations who were assigned new channels are scheduled to have vacated their pre-auction channels by July 3, 2020, pursuant to a 10-phase transition schedule adopted by the Commission.

In May 2014, the Commission adopted a Report and Order that laid out the general framework for the BIA. The auction started on March 29, 2016, with the submission of initial commitments by eligible broadcast licensees. The BIA ended on April 13, 2017, with the release of the Auction Closing and Channel Reassignment Public Notice that also marked the start of the 39-month transition period during which 987 of the full power and Class A

television stations remaining on-the-air will transition their stations to their post-auction channel assignments in the reorganized television band. Pursuant to the Spectrum Act, the Commission will reimburse 957 of those full power and Class A stations for the reasonable costs associated with relocating to their post-auction channel assignments and will reimburse multichannel video programming distributors for their costs associated with continuing to carry the signals of those stations.

In March 2018, the Consolidated Appropriations Act (Pub. L. 115–141, at Div. E, Title V, 511, 132 Stat. 348 (2018), codified at 47 U.S.C. 1452(j)–(n)) (the Reimbursement Expansion Act or REA), extended the deadline for reimbursement of eligible entities from April 2020 to no later than July 3, 2023, and also expanded the universe of entities eligible for reimbursement to include low-power television stations and TV translator stations displaced by the BIA for their reasonably incurred costs to relocate to a new channel, and FM broadcast stations for their reasonably incurred costs for facilities necessary to reasonably minimize disruption of service as a result of the post-auction reorganization of the television band. On March 15, 2019, the Commission adopted a Report and Order setting rules for the reimbursement of eligible costs to those newly eligible entities.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/21/12	77 FR 69933
R&O .....	08/15/14	79 FR 48441
Final Rule .....	10/11/17	82 FR 47155
NPRM .....	08/27/18	83 FR 43613
R&O .....	03/26/19	84 FR 11233
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Jean L. Kiddoo, Chair, Incentive Auction Task Force, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–7757, *Email:* [jean.kiddoo@fcc.gov](mailto:jean.kiddoo@fcc.gov), *RIN:* 3060–AJ82

**325. Amendment of Parts 1, 2, 22, 24, 27, 90, and 95 of the Commission’s Rules To Improve Wireless Coverage Through the Use of Signal Boosters (WT Docket No. 10–4)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 79; 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 155; 47 U.S.C. 157; 47

U.S.C. 225; 47 U.S.C. 227; 47 U.S.C. 303(r)

**Abstract:** This action adopts new technical, operational, and registration requirements for signal boosters. It creates two classes of signal boosters—consumer and industrial—with distinct regulatory requirements for each, thereby establishing a two-step transition process for equipment certification for both consumer and industrial signal boosters sold and marketed in the United States.

**Timetable:**

Action	Date	FR Cite
NPRM .....	05/10/11	76 FR 26983
R&O .....	04/11/13	78 FR 21555
Petition for Reconsideration.	06/06/13	78 FR 34015
Order on Reconsideration.	11/08/14	79 FR 70790
FNPRM .....	11/28/14	79 FR 70837
2nd R&O and 2nd FNPRM.	03/23/18	83 FR 17131
Next Action Undetermined.		

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Amanda Huetinck, Attorney Advisor, WTB, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418–7090, Email: amanda.huetinck@fcc.gov. RIN: 3060–AJ87

**326. Amendment of the Commission's Rules Governing Certain Aviation Ground Station Equipment (Squitter) (WT Docket Nos. 10–61 and 09–42)**

**E.O. 13771 Designation:** Independent agency.

**Legal Authority:** 48 Stat. 1066, 1082 as amended; 47 U.S.C. 154; 47 U.S.C. 303; 47 U.S.C. 307(e); 47 U.S.C. 151 to 156; 47 U.S.C. 301

**Abstract:** This action amends part 87 rules to authorize new ground station technologies to promote safety and allow use of frequency 1090 MHz by aeronautical utility mobile stations for airport surface detection equipment (commonly referred to as “squitters”) to help reduce collisions between aircraft and airport ground vehicles.

**Timetable:**

Action	Date	FR Cite
NPRM .....	04/28/10	75 FR 22352
R&O .....	03/01/13	78 FR 61023
NPRM (release date).	06/07/19	
Next Action Undetermined.		

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Tim Maguire, Electronics Engineer, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418–2155, Fax: 202 418–7247, Email: tim.maguire@fcc.gov.

RIN: 3060–AJ88

**327. Promoting Technological Solutions To Combat Wireless Contraband Device Use in Correctional Facilities; GN Docket No. 13–111**

**E.O. 13771 Designation:** Independent agency.

**Legal Authority:** 47 U.S.C. 151 to 152; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 301; 47 U.S.C. 303(a); 47 U.S.C. 303(b); 47 U.S.C. 307 to 310; 47 U.S.C. 332; 47 U.S.C. 302(a)

**Abstract:** In the Report and Order, the Commission addresses the problem of illegal use of contraband wireless devices by inmates in correctional facilities by streamlining the process of deploying contraband wireless device interdiction systems (CIS)—systems that use radio communications signals requiring Commission authorization—in correctional facilities. In particular, the Commission eliminates certain filing requirements and provides for immediate approval of the lease applications needed to operate these systems.

In the Further Notice, the Commission seeks comment on a process for wireless providers to disable contraband wireless devices once they have been identified. The Commission also seeks comment on additional methods and technologies that might prove successful in combating contraband device use in correctional facilities, and on various other proposals related to the authorization process for CISs and their deployment.

**Timetable:**

Action	Date	FR Cite
NPRM .....	06/18/13	78 FR 36469
NPRM Comment Period End.	08/08/13	
FNPRM .....	05/18/17	82 FR 22780
R&O .....	05/18/17	82 FR 22742
Final Rule Effective (Except for Rules Requiring OMB Approval).	06/19/17	
FNPRM Comment Period End.	07/17/17	
Final Rule Effective for 47 CFR 1.9020(n), 1.9030(m), 1.9035(o), and 20.23(a).	10/20/17	82 FR 48773

Action	Date	FR Cite
Final Rule Effective for 47 CFR 1.902(d)(8), 1.9035(d)(4), 20.18(a), and 20.18(r). Next Action Undetermined.	02/12/18	

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Melissa Conway, Attorney Advisor, Mobility Div., Wireless Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418–2887, Email: melissa.conway@fcc.gov. RIN: 3060–AK06

**328. Promoting Investment in the 3550–3700 MHz Band; GN Docket No. 17–258**

**E.O. 13771 Designation:** Independent agency.

**Legal Authority:** 47 U.S.C. 151 and 152; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 302(a); 47 U.S.C. 303 and 304; 47 U.S.C. 307(e); 47 U.S.C. 316

**Abstract:** The Report and Order and Second Further Notice of Proposed Rulemaking (NPRM) adopted by the Commission established a new Citizens Broadband Radio Service for shared wireless broadband use of the 3550 to 3700 MHz band. The Citizens Broadband Radio Service is governed by a three-tiered spectrum authorization framework to accommodate a variety of commercial uses on a shared basis with incumbent Federal and non-Federal users of the band. Access and operations will be managed by a dynamic spectrum access system. The three tiers are: Incumbent Access, Priority Access, and General Authorized Access. Rules governing the Citizens Broadband Radio Service are found in part 96 of the Commission's rules.

The Order on Reconsideration and Second Report and Order addressed several Petitions for Reconsideration submitted in response to the Report and Order and resolved the outstanding issues raised in the Second Further Notice of Proposed Rulemaking.

The 2017 NPRM sought comment on limited changes to the rules governing Priority Access Licenses in the band, adjacent channel emissions limits, and public release of base station registration information.

**Timetable:**

Action	Date	FR Cite
NPRM .....	01/08/13	78 FR 1188
NPRM Comment Period End.	03/19/13	

Action	Date	FR Cite
FNPRM .....	06/02/14	79 FR 31247
FNPRM Comment Period End.	08/15/14	
R&O and 2nd FNPRM.	06/15/15	80 FR 34119
2nd FNPRM Comment Period End.	08/14/15	
Order on Recon and 2nd R&O.	07/26/16	81 FR 49023
NPRM .....	11/28/17	82 FR 56193
NPRM Comment Period End.	01/29/18	
R&O .....	12/07/18	83 FR 6306
Next Action Undetermined.		

*Regulatory Flexibility Analysis*  
Required: Yes.

*Agency Contact:* Paul Powell, Assistant Chief, Mobility Division, WTB, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-1613, *Email:* paul.powell@fcc.gov.  
*RIN:* 3060-AK12

**329. Use of Spectrum Bands Above 24 GHz for Mobile Services—Spectrum Frontiers: WT Docket 10-112**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 to 154; 47 U.S.C. 157; 47 U.S.C. 160; 47 U.S.C. 201; 47 U.S.C. 225; 47 U.S.C. 227; 47 U.S.C. 301 and 302; 47 U.S.C. 302(a); 47 U.S.C. 303 and 304; 47 U.S.C. 307; 47 U.S.C. 309 and 310; 47 U.S.C. 316; 47 U.S.C. 319; 47 U.S.C. 332; 47 U.S.C. 336; 47 U.S.C. 1302

*Abstract:* In this proceeding, the Commission adopted service rules for licensing of mobile and other uses for millimeter wave (mmW) bands. These high frequencies previously have been best suited for satellite or fixed microwave applications; however, recent technological breakthroughs have newly enabled advanced mobile services in these bands, notably including very high speed and low latency services. This action will help facilitate Fifth Generation mobile services and other mobile services. In developing service rules for mmW bands, the Commission will facilitate access to spectrum, develop a flexible spectrum policy, and encourage wireless innovation.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/13/16	81 FR 1802
NPRM Comment Period End.	02/26/16	
FNPRM .....	08/24/16	81 FR 58269
Comment Period End.	09/30/16	

Action	Date	FR Cite
FNPRM Reply Comment Period End.	10/31/16	
R&O .....	11/14/16	81 FR 79894
R&O .....	01/02/18	83 FR 37
FNPRM .....	01/02/18	83 FR 85
FNPRM Comment Period End.	01/23/18	
R&O .....	07/20/18	83 FR 34478
FNPRM .....	07/20/18	83 FR 34520
FNPRM Comment Period End.	09/28/18	
R&O .....	02/05/19	84 FR 1618
R&O .....	05/01/19	84 FR 18405
Next Action Undetermined.		

*Regulatory Flexibility Analysis*  
Required: Yes.

*Agency Contact:* John Schauble, Deputy Chief, Broadband Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-0797, *Email:* john.schauble@fcc.gov.  
*RIN:* 3060-AK44

**330. Transforming the 2.5 GHz Band**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 to 153; 47 U.S.C. 154(i); 47 U.S.C. 157; 47 U.S.C. 201; 47 U.S.C. 301 and 302; 47 U.S.C. 304; 47 U.S.C. 307 to 310; 47 U.S.C. 1302

*Abstract:* The 2.5 GHz band (2496–2690 MHz) constitutes the single largest band of contiguous spectrum below 3 GHz and has been identified as prime spectrum for next generation mobile operations, including 5G uses. Significant portions of this band, however, currently lie fallow across approximately one-half of the United States, primarily in rural areas. Moreover, access to the Educational Broadband Service (EBS) has been strictly limited since 1995, and current licensees are subject to a regulatory regime largely unchanged from the days when educational TV was the only use envisioned for this spectrum. The Commission proposes to allow more efficient and effective use of this spectrum band by providing greater flexibility to current EBS licensees as well as providing new opportunities for additional entities to obtain unused 2.5 GHz spectrum to facilitate improved access to next generation wireless broadband, including 5G. The Commission also seeks comment on additional approaches for transforming the 2.5 GHz band, including by moving directly to an auction for some or all of the spectrum.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/07/18	83 FR 26396
NPRM Comment Period Extended.	06/21/18	83 FR 31515
NPRM Comment Period End.	09/07/18	
Final Rule .....	10/25/19	84 FR 57343
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

Required: Yes.

*Agency Contact:* John Schauble, Deputy Chief, Broadband Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-0797, *Email:* john.schauble@fcc.gov.  
*RIN:* 3060-AK75

**331. Amendment of the Commission's Rules To Promote Aviation Safety: WT Docket No. 19-140**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154; 47 U.S.C. 303; 307(e)

*Abstract:* The Federal

Communications Commission regulates the Aviation Radio Service, a family of services using dedicated spectrum to enhance the safety of aircraft in flight, facilitate the efficient movement of aircraft both in the air and on the ground, and otherwise ensure the reliability and effectiveness of aviation communications. Recent technological advances have prompted the Commission to open this new rulemaking proceeding to ensure the timely deployment and use of today's state-of-the-art safety-enhancing technologies. With this Notice of Proposed Rulemaking, the Commission proposes changes to its part 87 Aviation Radio Service rules to support the deployment of more advanced avionics technology, increase the efficient use of limited spectrum resources, and generally improve aviation safety.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/02/19	84 FR 31542
NPRM Comment Period End.	09/03/19	
NPRM Reply Comment Period End.	09/30/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

Required: Yes.

*Agency Contact:* Jeff Tobias, Attorney Advisor, Federal Communications Commission, Wireless



Telecommunications Bureau, 445 12th Street SW, Washington, DC 20554,  
Phone: 202 418-1617, Email:  
jeff.tobias@fcc.gov.

RIN: 3060-AK92

**332. • Establishing the Digital Opportunity Data Collection; WC Docket Nos. 19-195 and 11-10**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 35 to 39; 47 U.S.C. 154; 47 U.S.C. 211; 47 U.S.C. 219; 47 U.S.C. 220; 47 U.S.C. 402(b)(2)(B); Pub. L. 104-104; . . .

*Abstract:* In the Report and Order, the Federal Communications Commission (FCC), moving to better identify gaps in broadband coverage across the nation, initiated a new process for collecting fixed broadband data to better pinpoint where broadband service is lacking. The Report and Order concluded that there is a compelling and immediate need to develop more granular broadband deployment data to meet this goal and, accordingly, created the new Digital Opportunity Data Collection.

The Digital Opportunity Data Collection will collect geospatial broadband coverage maps from fixed broadband internet service providers of areas where they make fixed service available. This geospatial data will facilitate development of granular, high-quality fixed broadband deployment maps, which should improve the FCC's ability to target support for broadband expansion through the agency's Universal Service Fund programs. The Report and Order also adopts a process to collect public input on the accuracy of service providers' broadband maps, facilitated by a crowd-sourcing portal that will gather input from consumers as well as from state, local, and Tribal governments.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/03/17	82 FR 40118
NPRM Comment Period End.	09/25/17	
Final Action .....	08/01/19	84 FR 43705
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael Ray, Attorney, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-0357, Email: michael.ray@fcc.gov.

RIN: 3060-AK93

**FEDERAL COMMUNICATIONS COMMISSION (FCC)**

*Wireless Telecommunications Bureau*

**Completed Actions**

**333. Service Rules for Advanced Wireless Services of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915-1920 MHz and 1995-2000 MHz Bands (WT Docket No. 12-357)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 301 to 303; 47 U.S.C. 307 to 310

*Abstract:* The Commission proposes rules for the Advanced Wireless Services (AWS) H Block that would make available 10 megahertz of flexible use. The proposal would extend the widely deployed Personal Communications Services (PCS) band, which is used by the four national providers as well as regional and rural providers to offer mobile service across the Nation. The additional spectrum for mobile use will help ensure that the speed, capacity, and ubiquity of the Nation's wireless networks keeps pace with the skyrocketing demand for mobile services.

Today's action is a first step to implement the congressional directive in the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act) to grant new initial licenses for the 1915-1920 MHz and 1995-2000 MHz bands (the Lower H Block and Upper H Block, respectively) through a system of competitive bidding—unless doing so would cause harmful interference to commercial mobile service licenses in the 1930-1985 MHz (PCS downlink) band. The potential for harmful interference to the PCS downlink band relates only to the Lower H Block transmissions, and may be addressed by appropriate technical rules, including reduced power limits on H Block devices. We, therefore, propose to pair and license the Lower H Block and the Upper H Block for flexible use, including mobile broadband, aiming to assign the licenses through competitive bidding in 2013. In the event that we conclude that the Lower H Block cannot be used without causing harmful interference to PCS, we propose to license the Upper H Block for full power, and seek comment on appropriate use for the Lower H Block, including Unlicensed PCS.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/08/13	78 FR 1166

Action	Date	FR Cite
NPRM Comment Period End.	03/06/13	
R&O .....	08/16/13	78 FR 50213
Order on Recon ..	06/06/19	84 FR 26363

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Peter Daronco, Deputy Division Chief, Broadband Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-7235, Email: peter.daronco@fcc.gov.

RIN: 3060-AJ86

**FEDERAL COMMUNICATIONS COMMISSION (FCC)**

*Wireline Competition Bureau*

**Long-Term Actions**

**334. Numbering Resource Optimization**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 201 *et seq.*; 47 U.S.C. 251(e)

*Abstract:* To slow the rate of numbering exhaust in the U.S. and prolong the life of the North American Numbering Plan, this proceeding considers and implements a number of strategies to ensure that telephone numbers are used efficiently, and that all carriers have the numbering resources they need to compete in the rapidly expanding telecommunications marketplace.

In 1999, the Commission released the Numbering Resource Optimization Notice of Proposed Rulemaking (Notice) in CC Docket 99-200. The Notice examined and sought comment on several administrative and technical measures aimed at improving the efficiency with which telecommunications numbering resources are used and allocated. It incorporated input from the North American Numbering Council (NANC), a Federal advisory committee, which advises the Commission on issues related to number administration.

In the Numbering Resource Optimization First Report and Order and Further Notice of Proposed Rulemaking (NRO First Report and Order), released on March 31, 2000, the Commission adopted a mandatory utilization data reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier



accountability and incentives to use numbers efficiently. In addition, the Commission adopted a single system for allocating numbers in blocks of 1,000, rather than 10,000, wherever possible, and established a plan for national rollout of thousands-block number pooling. The Commission also adopted numbering resource reclamation requirements to ensure that unused numbers are returned to the North American Numbering Plan (NANP) inventory for assignment to other carriers. Also, to encourage better management of numbering resources, carriers are required, to the extent possible, to first assign numbering resources within thousands blocks (a form of sequential numbering).

In the NRO Second Report and Order, the Commission adopted a measure that requires all carriers to use at least 60 percent of their numbering resources before they may get additional numbers in a particular area. That 60 percent utilization threshold increases to 75 percent over the next three years. The Commission also established a 5-year term for the national pooling administrator and an auditing program to verify carrier compliance with the Commission's rules. Furthermore, the Commission declined to amend the existing Federal rules for area code relief or specify any new Federal guidelines for the implementation of area code relief. The Commission also declined to state a preference for either all-services overlays or geographic splits as a method of area code relief.

Regarding mandatory nationwide 10-digit dialing, the Commission declined to adopt this measure at the present time. Furthermore, the Commission declined to mandate nationwide expansion of the "D digit" (the "N" of an NXX or central office code) to include zero or one, or to grant State commissions the authority to implement the expansion of the "D" digit as a numbering resource optimization measure presently.

In the NRO Third Report and Order, the Commission addressed national thousands-block number pooling administration issues, including declining to alter the implementation date for covered CMRS carriers to participate in pooling. The Commission also addressed Federal cost recovery for national thousands-block number pooling, and continued to require States to establish cost recovery mechanisms for costs incurred by carriers participating in pooling trials. The Commission reaffirmed the Months-To-Exhaust (MTE) requirement for carriers. The Commission declined to lower the utilization threshold established in the

Second Report and Order, and declined to exempt pooling carriers from the utilization threshold. The Commission also established a safety valve mechanism to allow carriers that do not meet the utilization threshold in a given rate center to obtain additional numbering resources. In the NRO Third Report and Order, the Commission lifted the ban on technology-specific overlays (TSOs) and delegated authority to the Common Carrier Bureau, in consultation with the Wireless Telecommunications Bureau, to resolve any such petitions. Furthermore, the Commission found that carriers who violate its numbering requirements, or fail to cooperate with an auditor conducting either a "for cause" or random audit, should be denied numbering resources in certain instances. The Commission also reaffirmed the 180-day reservation period, declined to impose fees to extend the reservation period, and found that State commissions should be allowed password-protected access to the NANP Administrator database for data pertaining to NPAs located within their State. The measures adopted in the NRO orders will allow the Commission to monitor more closely the way numbering resources are used within the NANP, and will promote more efficient allocation and use of NANP resources by tying a carrier's ability to obtain numbering resources more closely to its actual need for numbers to serve its customers.

In NRO Third Order on Recon in CC Docket No. 99–200, Third Further Notice of Proposed Rulemaking in CC Docket No. 99–200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 95–116, the Commission reversed its clarification that those requirements extend to all carriers in the largest 100 MSAs, regardless of whether they have received a request from another carrier to provide LNP. The Commission also sought comment on whether the Commission should again extend the LNP requirements to all carriers in the largest 100 MSAs, regardless of whether they receive a request to provide LNP. The Commission also sought comment on whether all carriers in the top 100 MSAs should be required to participate in thousands-block number pooling, regardless of whether they are required to be LNP capable. In addition, the Commission sought comment on whether all MSAs included in Combined Metropolitan Statistical Areas (CMSAs) on the Census Bureau's list of the largest 100 MSAs should be

included on the Commission's list of the top 100 MSAs.

In the NRO Fourth Report and Order and Further Notice of Proposed Rulemaking, the Commission reaffirmed that carriers must deploy LNP in switches within the 100 largest Metropolitan Statistical Areas (MSAs) for which another carrier has made a specific request for the provision of LNP. The Commission delegated the authority to State commissions to require carriers operating within the largest 100 MSAs that have not received a specific request for LNP from another carrier to provide LNP, under certain circumstances and on a case-by-case basis. The Commission concluded that all carriers, except those specifically exempted, are required to participate in thousands-block number pooling in accordance with the national rollout schedule, regardless of whether they are required to provide LNP, including commercial mobile radio service (CMRS) providers that were required to deploy LNP as of November 24, 2003. The Commission specifically exempted from the pooling requirement rural telephone companies and Tier III CMRS providers that have not received a request to provide LNP. The Commission also exempted from the pooling requirement carriers that are the only service provider receiving numbering resources in a given rate center. Additionally, the Commission sought further comment on whether these exemptions should be expanded to include carriers where there are only two service providers receiving numbering resources in the rate center. Finally, the Commission reaffirmed that the 100 largest MSAs are identified in the 1990 U.S. Census reports, as well as those areas included on any subsequent U.S. Census report of the 100 largest MSAs.

In the NRO Order and Fifth Further Notice of Proposed Rulemaking, the Commission granted petitions for delegated authority to implement mandatory thousands-block pooling filed by the Public Service Commission of West Virginia, the Nebraska Public Service Commission, the Oklahoma Corporation Commission, the Michigan Public Service Commission, and the Missouri Public Service Commission. In granting these petitions, the Commission permitted these States to optimize numbering resources and further extend the life of the specific numbering plan areas. In the Further Notice of Proposed Rulemaking, the Commission sought comment on whether it should delegate authority to all States to implement mandatory thousands-block number pooling

consistent with the parameters set forth in the NRO Order.

In its 2013 Notice of Proposed Rulemaking, the Commission proposed to allow interconnected Voice over Internet Protocol (VOIP) providers to obtain telephone numbers directly from the North American Numbering Plan Administrator and the Pooling Administrator, subject to certain requirements. The Commission also sought comment on a forward-looking approach to numbers for other types of providers and uses, including telematics and public safety, and the benefits and number exhaust risks of granting providers other than interconnected VoIP providers direct access.

In its 2015 Report and Order, the Commission established an authorization process to enable interconnected VoIP providers that choose to obtain access to North American Numbering Plan telephone numbers directly from the North American Numbering Plan Administrator and/or the Pooling Administrator (Numbering Administrators), rather than through intermediaries. The Order also set forth several conditions designed to minimize number exhaust and preserve the integrity of the numbering system. Specifically, the Commission required interconnected VoIP providers obtaining numbers to comply with the same requirements applicable to carriers seeking to obtain numbers. The requirements included any State requirements pursuant to numbering authority delegated to the States by the Commission, as well as industry guidelines and practices, among others. The Commission also required interconnected VoIP providers to comply with facilities readiness requirements adapted to this context, and with numbering utilization and optimization requirements. In addition, as conditions to requesting and obtaining numbers directly from the Numbering Administrators, the Commission required interconnected VoIP providers to (1) provide the relevant State commissions with regulatory and numbering contacts when requesting numbers in those States, (2) request numbers from the Numbering Administrators under their own unique OCN, (3) file any requests for numbers with the relevant State commissions at least 30 days prior to requesting numbers from the Numbering Administrators, and (4) provide customers with the opportunity to access all abbreviated dialing codes (N11 numbers) in use in a geographic area. Finally, the Order also modified Commission's rules in order to permit

VoIP Positioning Center providers to obtain pseudo-Automatic Number Identification codes directly from the Numbering Administrators for purposes of providing E911 services.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/17/99	64 FR 32471
R&O and FNPRM	06/16/00	65 FR 37703
Second R&O and Second FNPRM.	02/08/01	66 FR 9528
Third R&O and Second Order on Recon.	02/12/02	67 FR 643
Third R&O on Recon and Third FNPRM.	04/05/02	67 FR 16347
Fourth R&O and Fourth FNPRM.	07/21/03	68 FR 43003
Order and Fifth FNPRM.	03/15/06	71 FR 13393
Order .....	06/19/13	78 FR 36679
NPRM & NOI .....	06/19/13	78 FR 36725
R&O .....	10/29/15	80 FR 66454
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Marilyn Jones, Senior Counsel, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-2357, *Fax:* 202 418-2345, *Email:* marilyn.jones@fcc.gov.

*RIN:* 3060-AH80

### 335. Jurisdictional Separations

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i) and 154(j); 47 U.S.C. 205; 47 U.S.C. 221(c); 47 U.S.C. 254; 47 U.S.C. 403; 47 U.S.C. 410

*Abstract:* Jurisdictional separations is the process, pursuant to part 36 of the Commission's rules, by which incumbent local exchange carriers apportion regulated costs between the intrastate and interstate jurisdictions. In 1997, the Commission initiated a proceeding seeking comment on the extent to which legislative changes, technological changes, and marketplace changes warrant comprehensive reform of the separations process. In 2001, the Commission adopted the Federal-State Joint Board on Jurisdictional Separations' Joint Board's recommendation to impose an interim freeze on the part 36 category relationships and jurisdictional cost allocation factors for a period of 5 years, pending comprehensive reform of the part 36 separations rules. In 2006, the Commission issued an Order and Further Notice of Proposed Rulemaking that extended the separations freeze for

a period of 3 years and sought comment on comprehensive reform. In 2009, the Commission issued a Report and Order extending the separations freeze an additional year to June 2010. In 2010, the Commission issued a Report and Order extending the separations freeze for an additional year to June 2011. In 2011, the Commission adopted a Report and Order extending the separations freeze for an additional year to June 2012. In 2012, the Commission issued a Report and Order extending the separations freeze for an additional 2 years to June 2014. In 2014, the Commission issued a Report and Order extending the separations freeze for an additional 3 years to June 2017.

In 2016, the Commission issued a Report and Order extending the separations freeze for an additional 18 months until January 1, 2018. In 2017, the Joint Board issued a Recommended Decision recommending changes to the part 36 rules designed to harmonize them with the Commission's previous amendments to its part 32 accounting rules. In February 2018, the Commission issued a Notice of Proposed Rulemaking proposing amendments to part 36 consistent with the Joint Board's recommendations. In October 2018, the Commission issued a Report and Order adopting each of the Joint Board's recommendations and amending the Part 36 consistent with those recommendations. In July 2018, the Commission issued a Notice of Proposed Rulemaking proposing to extend the separations freeze for an additional 15 years and to provide rate-of-return carriers that had elected to freeze their category relationships a time limited opportunity to opt out of that freeze. In December 2018, the Commission issued a Report and Order extending the freeze for up to 6 years until December 31, 2024, and granting rate-of-return carriers that had elected to freeze their category relationships a one-time opportunity to opt out of that freeze.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/05/97	62 FR 59842
NPRM Comment Period End.	12/10/97	
Order .....	06/21/01	66 FR 33202
Order and FNPRM.	05/26/06	71 FR 29882
Order and FNPRM Comment Period End.	08/22/06	
R&O .....	05/15/09	74 FR 23955
R&O .....	05/25/10	75 FR 30301
R&O .....	05/27/11	76 FR 30840
R&O .....	05/23/12	77 FR 30410

Action	Date	FR Cite
R&O .....	06/13/14	79 FR 36232
R&O .....	06/02/17	82 FR 25535
Recommended Decision.	10/27/17	
NPRM .....	03/13/18	83 FR 10817
NPRM Comment Period End.	04/27/18	
NPRM .....	07/27/18	83 FR 35589
NPRM Comment Period End.	09/10/18	
R&O .....	12/11/18	83 FR 63581
R&O .....	02/15/19	84 FR 4351
Announcement of OMB Approval.	03/01/19	84 FR 6977
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* William Kehoe, Senior Counsel, PPD, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7122, *Fax:* 202 418-1413, *Email:* william.kehoe@fcc.gov.

*RIN:* 3060-AJ06

### 336. Development of Nationwide Broadband Data To Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 251; 47 U.S.C. 252; 47 U.S.C. 257; 47 U.S.C. 271; 47 U.S.C. 1302; 47 U.S.C. 160(b); 47 U.S.C. 161(a)(2)

*Abstract:* The Report and Order streamlined and reformed the Commission's Form 477 Data Program, which is the Commission's primary tool to collect data on broadband and telephone services.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/16/07	72 FR 27519
Order .....	07/02/08	73 FR 37861
Order .....	10/15/08	73 FR 60997
NPRM .....	02/08/11	76 FR 10827
Order .....	06/27/13	78 FR 49126
NPRM .....	08/24/17	82 FR 40118
NPRM Comment Period End.	09/25/17	
NPRM Reply Comment Period End.	10/10/17	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Suzanne Mendez, Program Analyst, OEA, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-0941, *Email:* suzanne.mendez@fcc.gov.

*RIN:* 3060-AJ15

### 337. Local Number Portability Porting Interval and Validation Requirements (WC Docket No. 07-244)

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 251; 47 U.S.C. 303(r)

*Abstract:* In 2007, the Commission released a Notice of Proposed Rulemaking in WC Docket No. 07-244. The Notice sought comment on whether the Commission should adopt rules specifying the length of the porting intervals or other details of the porting process. It also tentatively concluded that the Commission should adopt rules reducing the porting interval for wireline-to-wireline and intermodal simple port requests, specifically, to a 48-hour porting interval.

In the Local Number Portability Porting Interval and Validation Requirements First Report and Order and a further Notice of Proposed Rulemaking, released on May 13, 2009, the Commission reduced the porting interval for simple wireline and simple intermodal port requests, requiring all entities subject to its local number portability (LNP) rules to complete simple wireline-to-wireline and simple intermodal port requests within one business day. In a related further Notice of Proposed Rulemaking (NPRM), the Commission sought comment on what further steps, if any, the Commission should take to improve the process of changing providers.

In the LNP Standard Fields Order, released on May 20, 2010, the Commission adopted standardized data fields for simple wireline and intermodal ports. The Order also adopts the NANC's recommendations for porting process provisioning flows and for counting a business day in the context of number porting.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/21/08	73 FR 9507
R&O and NPRM	07/02/09	74 FR 31630
R&O .....	06/22/10	75 FR 35305
Public Notice .....	12/21/11	76 FR 79607
Public Notice .....	06/06/13	78 FR 34015
R&O .....	05/26/15	80 FR 29978
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Michelle Sclater, Attorney, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC

20554, *Phone:* 202 418-0388, *Email:* michelle.sclater@fcc.gov.

*RIN:* 3060-AJ32

### 338. Rural Call Completion; WC Docket No. 13-39

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154; 47 U.S.C. 217; 47 U.S.C. 201; 47 U.S.C. 202; 47 U.S.C. 218; 47 U.S.C. 220; 47 U.S.C. 262; 47 U.S.C. 403(b)(2)(B); 47 U.S.C. 251(a); 47 U.S.C. 225; 47 U.S.C. 620; 47 U.S.C. 251; 47 U.S.C. 251(e); 47 U.S.C. 254(k); 47 U.S.C. 616; 47 U.S.C. 226; 47 U.S.C. 227; 47 U.S.C. 228; 47 U.S.C. 1401-1473

*Abstract:* The Third RCC Order began implementation of the Improving Rural Call Quality and Reliability Act of 2017 (RCC Act), by adopting rules designed to ensure the integrity of our nation's telephone network and prevent unjust or unreasonable discrimination among areas of the United States in the delivery of telephone service. In particular, the Third RCC Order adopted rules to establish a registry for intermediate providers entities that transmit, but do not originate or terminate, voice calls. The Order requires intermediate providers to register with the Commission before offering to transmit covered voice communications, and requires covered providers entities that select the initial long-distance route for a large number of lines to use only registered intermediate providers to transmit covered voice communications.

The Fourth RCC Order completed the Commission's implementation of the RCC Act by adopting service quality standards for intermediate providers, as well as an exception to those standards for intermediate providers that qualify for the covered provider safe harbor in our existing rules. The Order also set forth procedures to enforce our intermediate provider requirements. Finally, the Fourth RCC Order adopted provisions to sunset the rural call completion data recording and retention requirements adopted in the First RCC Order one year after the effective date of the new intermediate provider service quality standards.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/12/13	78 FR 21891
Public Notice .....	05/07/13	78 FR 26572
NPRM Comment Period End.	05/28/13	
R&O and FNPRM	12/17/13	78 FR 76218
PRA 60 Day Notice.	12/30/13	78 FR 79448
FNPRM Comment Period End.	02/18/14	

Action	Date	FR Cite
PRA Comments Due.	03/11/14	
Public Notice .....	05/06/14	79 FR 25682
Order on Reconsideration.	12/10/14	79 FR 73227
Erratum .....	01/08/15	80 FR 1007
Public Notice .....	03/04/15	80 FR 11593
2nd FNPRM .....	07/27/17	82 FR 34911
2nd FNPRM Comment Period End.	08/28/17	
Reply Comment Period End.	09/25/17	
2nd Order .....	04/17/18	83 FR 21723
3rd FNPRM .....	04/17/18	83 FR 21983
3rd FNPRM Comment Period End.	06/04/18	
3rd FNPRM Reply Comment Period End.	06/19/18	
3rd Order .....	08/13/18	83 FR 47296
4th Order .....	03/15/19	84 FR 25692
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Zachary Ross, Attorney Advisor, Competition Policy Division, WCB, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-1033, *Email:* zachary.ross@fcc.gov.  
*RIN:* 3060-AJ89

**339. Rates for Inmate Calling Services; WC Docket No. 12-375**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 and 152; 47 U.S.C. 154(i) and (j); 47 U.S.C. 225; 47 U.S.C. 276; 47 U.S.C. 303(r); 47 CFR 64; 47 U.S.C. 201

*Abstract:* In the Second Report and Order, the Federal Communications Commission adopted rule changes to ensure that rates for both interstate and intrastate inmate calling services (ICS) are fair, just, and reasonable limits on ancillary service charges imposed by ICS providers. In the Second Report and Order, the Commission set caps on all interstate and intrastate calling rates for ICS, established a tiered rate structure based on the size and type of facility being served, limited the types of ancillary services that ICS providers may charge for and capped the charges for permitted fees, banned flat-rate calling, facilitated access to ICS by people with disabilities by requiring providers to offer free or steeply discounted rates for calls using TTY, and imposed reporting and certification requirements to facilitate continued oversight of the ICS market. In the Third Further Notice portion of the item, the

Commission sought comment on ways to promote competition for ICS, video visitation, and rates for international calls, and considered an array of solutions to further address areas of concern in the ICS industry. In an Order on Reconsideration, the Commission amended its rate caps and the definition of “mandatory tax or mandatory fee.”

On June 13, 2017, the D.C. Circuit vacated the rate caps adopted in the Second Report and Order, as well as reporting requirements related to video visitation. The court held that the Commission lacked jurisdiction over intrastate ICS calls and that the rate caps the Commission adopted for interstate calls were arbitrary and capricious. The court also remanded the Commission’s caps on ancillary fees. On September 26, 2017, the court denied a petition for rehearing en banc. On December 21, 2017, the court issued two separate orders: One vacating the 2016 Order on Reconsideration insofar as it purports to set rate caps on inmate calling services, and one dismissing as moot challenges to the Commission’s First Report and Order on ICS.

On February 4, 2020, the Commission’s Wireline Competition Bureau released a Public Notice seeking to refresh the record on ancillary service charges imposed in connection with inmate calling services.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/22/13	78 FR 4369
FNPRM .....	11/13/13	78 FR 68005
R&O .....	11/13/13	78 FR 67956
FNPRM Comment Period End.	12/20/13	
Announcement of Effective Date.	06/20/14	79 FR 33709
2nd FNPRM .....	11/21/14	79 FR 69682
2nd FNPRM Comment Period End.	01/15/15	
2nd FNPRM Reply Comment Period End.	01/20/15	
3rd FNPRM .....	12/18/15	80 FR 79020
2nd R&O .....	12/18/15	80 FR 79136
3rd FNPRM Comment Period End.	01/19/16	
3rd FNPRM Reply Comment Period End.	02/08/16	
Order on Reconsideration.	09/12/16	81 FR 62818
Announcement of OMB Approval.	03/01/17	82 FR 12182
Correction to Announcement of OMB Approval.	03/08/17	82 FR 12922
Announcement of OMB Approval.	02/06/20	85 FR 6947
Public Notice .....	02/19/20	85 FR 9444

Action	Date	FR Cite
Public Notice Comment Period End.	03/20/20	
Public Notice Reply Comment Period End.	04/06/20	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* William Kehoe, Senior Counsel, PPD, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7122, *Fax:* 202 418-1413, *Email:* william.kehoe@fcc.gov.  
*RIN:* 3060-AK08

**340. Comprehensive Review of the Part 32 Uniform System of Accounts (WC Docket No. 14-130)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 201(b); 47 U.S.C. 219 and 220

*Abstract:* The Commission initiates a rulemaking proceeding to review the Uniform System of Accounts (USOA) to consider ways to minimize the compliance burdens on incumbent local exchange carriers while ensuring that the Agency retains access to the information it needs to fulfill its regulatory duties. In light of the Commission’s actions in areas of price cap regulation, universal service reform, and intercarrier compensation reform, the Commission stated that it is likely appropriate to streamline the existing rules even though those reforms may not have eliminated the need for accounting data for some purposes. The Commission’s analysis and proposals are divided into three parts. First, the Commission proposes to streamline the USOA accounting rules while preserving their existing structure. Second, the Commission seeks more focused comment on the accounting requirements needed for price cap carriers to address our statutory and regulatory obligations. Third, the Commission seeks comment on several related issues, including state requirements, rate effects, implementation, continuing property records, and legal authority.

On February 23, 2017, the Commission adopted a Report and Order that revised the part 32 USOA to substantially reduce accounting burdens for both price cap and rate-of-return carriers. First, the Order streamlines the USOA for all carriers. In addition, the USOA will be aligned more closely with

generally accepted accounting principles, or GAAP. Second, the Order allows price cap carriers to use GAAP for all regulatory accounting purposes as long as they comply with targeted accounting rules, which are designed to mitigate any impact on pole attachment rates. Alternatively, price cap carriers can elect to use GAAP accounting for all purposes other than those associated with pole attachment rates and continue to use the part 32 accounts for pole attachment rates for up to 12 years. Third, the Order addresses several miscellaneous issues, including referral to the Federal-State Joint Board on Separations the issue of examining jurisdictional separations rules in light of the reforms adopted to part 32.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/15/14	79 FR 54942
NPRM Comment Period End.	11/14/14	
NPRM Reply Comment Period End.	12/15/14	
R&O .....	04/04/17	82 FR 20833
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Robin Cohn, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-2747, *Email:* robin.cohn@fcc.gov, *RIN:* 3060-AK20

**341. Restoring Internet Freedom (WC Docket No. 17-108); Protecting and Promoting the Open Internet (GN Docket No. 14-28)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i) and (j); 47 U.S.C. 201(b)

*Abstract:* In December 2017, the Commission adopted the Restoring Internet Freedom Declaratory Ruling, Report and Order, and Order (Restoring Internet Freedom Order), which restored the light-touch regulatory framework under which the internet had grown and thrived for decades by classifying broadband Internet access service as an information service. The Restoring Internet Freedom Order ends title II regulation of the internet and returns broadband internet access service to its long-standing classification as an information service; reinstates the determination that mobile broadband internet access service is not a commercial mobile service and returns it to its original classification as a

private mobile service; finds that transparency, Internet Service Providers (ISPs) economic incentives, and antitrust and consumer protection laws will protect the openness of the internet, and that title II regulation is unnecessary to do so; and adopts a transparency rule similar to that in the 2010 Open Internet Order, requiring disclosure of network management practices, performance characteristics, and commercial terms of service. Additionally, the transparency rule requires ISPs to disclose any blocking, throttling, paid prioritization, or affiliate prioritization, and eliminates the internet conduct standard and the bright-line conduct rules set forth in the 2015 title II Order.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/01/14	79 FR 37448
NPRM Comment Period End.	07/18/14	
NPRM Reply Comment Period End.	09/15/14	
R&O on Remand, Declaratory Ruling, and Order.	04/13/15	80 FR 19737
NPRM .....	06/02/17	82 FR 25568
NPRM Comment Period End.	07/03/17	
Declaratory Ruling, R&O, and Order.	02/22/18	83 FR 7852
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Melissa Kinkel, Attorney Advisor, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7958, *Fax:* 202 418-1413, *Email:* melissa.kinkel@fcc.gov, *RIN:* 3060-AK21

**342. Technology Transitions; GN Docket No. 13-5, WC Docket No. 05-25; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment; WC Docket No. 17-84**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 214; 47 U.S.C. 251

*Abstract:* On April 20, 2017, the Commission adopted a Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment (Wireline Infrastructure NPRM, NOI, and RFC) seeking input on a number of actions designed to accelerate: (1) The deployment of next-generation networks and services by removing barriers to

infrastructure investment at the Federal, State, and local level; (2) the transition from legacy copper networks and services to next-generation fiber-based networks and services; and (3) the reduction of Commission regulations that raise costs and slow, rather than facilitate, broadband deployment.

On November 16, 2017, the Commission adopted a Report and Order (R&O), Declaratory Ruling, and Further Notice of Proposed Rulemaking (Wireline Infrastructure Order) that takes a number of actions and seeks comment on further actions designed to accelerate the deployment of next-generation networks and services through removing barriers to infrastructure investment.

The Wireline Infrastructure Order took a number of actions. First, the Report and Order revised the pole attachment rules to reduce costs for attachers, reforms the pole access complaint procedures to settle access disputes more swiftly, and increases access to infrastructure for certain types of broadband providers. Second, the Report and Order revised the section 214(a) discontinuance rules and the network change notification rules, including those applicable to copper retirements, to expedite the process for carriers seeking to replace legacy network infrastructure and legacy services with advanced broadband networks and innovative new services. Third, the Report and Order reversed a 2015 ruling that discontinuance authority is required for solely wholesale services to carrier-customers. Fourth, the Declaratory Ruling abandoned the 2014 “functional test” interpretation of when section 214 discontinuance applications are required, bringing added clarity to the section 214(a) discontinuance process for carriers and consumers alike. Finally, the Further Notice of Proposed Rulemaking sought comment on additional potential pole attachment reforms, reforms to the network change disclosure and section 214(a) discontinuance processes, and ways to facilitate rebuilding networks impacted by natural disasters.

On June 7, 2018, the Commission adopted a Second Report and Order (Wireline Infrastructure Second Report and Order) taking further actions designed to expedite the transition from legacy networks and services to next generation networks and advanced services that benefit the American public and to promote broadband deployment by further streamlining the section 214(a) discontinuance rules, network change disclosure processes,

and part 68 customer notification process.

The Wireline Infrastructure NPRM, NOI, and RFC sought comment on additional issues not addressed in the November Wireline Infrastructure Order or the June Wireline Infrastructure Second Report and Order. It sought comment on changes to the Commission's pole attachment rules to: (1) Streamline the timeframe for gaining access to utility poles; (2) reduce charges paid by attachers for work done to make a pole ready for new attachments; and (3) establish a formula for computing the maximum pole attachment rate that may be imposed on an incumbent LEC.

The Wireline Infrastructure NPRM, NOI, and RFC also sought comment on whether the Commission should enact rules, consistent with its authority under section 253 of the Act, to promote the deployment of broadband infrastructure by preempting State and local laws that inhibit broadband deployment. It also sought comment on whether there are State laws governing the maintenance or retirement of copper facilities that serve as a barrier to deploying next-generation technologies and services that the Commission might seek to preempt.

Previously, in November 2014, the Commission adopted a Notice of Proposed Rulemaking and Declaratory Ruling that: (1) Proposed new backup power rules; (2) proposed new or revised rules for copper retirements and service discontinuances; and (3) adopted a functional test in determining what constitutes a service for purposes of section 214(a) discontinuance review. In August 2015, the Commission adopted a Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking that: (i) Lengthened and revised the copper retirement process; (ii) determined that a carrier must obtain Commission approval before discontinuing a service used as a wholesale input if the carrier's actions will discontinue service to a carrier-customer's retail end users; (iii) adopted an interim rule requiring incumbent LECs that seek to discontinue certain TDM-based wholesale services to commit to certain rates, terms, and conditions; (iv) proposed further revisions to the copper retirement discontinuance process; and (v) upheld the November 2014 Declaratory Ruling. In July 2016, the Commission adopted a Second Report and Order, Declaratory Ruling, and Order on Reconsideration that: (i) Adopted a new test for obtaining streamlined treatment when carriers seek Commission authorization to

discontinue legacy services in favor of services based on newer technologies; (ii) set forth consumer education requirements for carriers seeking to discontinue legacy services in favor of services based on newer technologies; (iii) allowed notice to customers of discontinuance applications by email; (iv) required carriers to provide notice of discontinuance applications to Tribal entities; (v) made a technical rule change to create a new title for copper retirement notices and certifications; and (vi) harmonized the timeline for competitive LEC discontinuances caused by incumbent LEC network changes.

On August 2, 2018, the Commission adopted a Third Report and Order and Declaratory Ruling (Wireline Infrastructure Third Report and Order) establishing a new framework for the vast majority of pole attachments governed by Federal law by instituting a one-touch make-ready regime, in which a new attacher may elect to perform all simple work to prepare a pole for new wireline attachments in the communications space. This new framework includes safeguards to promote coordination among parties and ensures that new attachers perform work safely and reliably. The Commission retained its multi-party pole attachment process for attachments that are complex or above the communications space of a pole, but made significant modifications to speed deployment, promote accurate billing, expand the use of self-help for new attachers when attachment deadlines are missed, and reduce the likelihood of coordination failures that lead to unwarranted delays. The Commission also improved its pole attachment rules by codifying and redefining Commission precedent that requires utilities to allow attachers to overlash existing wires, thus maximizing the usable space on the pole; eliminating outdated disparities between the pole attachment rates that incumbent carriers must pay compared to other similarly-situated cable and telecommunications attachers; and clarifying that the Commission will preempt, on an expedited case-by-case basis, State and local laws that inhibit the rebuilding or restoration of broadband infrastructure after a disaster. The Commission also adopted a Declaratory Ruling that interpreted section 253(a) of the Communications Act to prohibit State and local express and *de facto* moratoria on the deployment of telecommunications services or facilities and directed the Wireline Competition and Wireless

Telecommunications Bureaus to act promptly on petitions challenging specific alleged moratoria.

#### *Timetable:*

Action	Date	FR Cite
NPRM .....	01/06/15	80 FR 450
NPRM Comment Period End.	02/05/15	
NPRM Reply Comment Period End.	03/09/15	
FNPRM .....	09/25/15	80 FR 57768
R&O .....	09/25/15	80 FR 57768
FNPRM Comment Period End.	10/26/15	
FNPRM Reply Comment Period End.	11/24/15	
2nd R&O .....	09/12/16	81 FR 62632
NPRM .....	05/16/17	82 FR 224533
NPRM Comment Period End.	06/15/17	
NPRM Reply Comment Period End.	07/17/17	
R&O .....	12/28/17	82 FR 61520
FNPRM Comment Period End.	01/17/18	
FNPRM Reply Comment Period End.	02/16/18	
2nd R&O .....	07/09/18	83 FR 31659
3rd R&O .....	09/14/18	83 FR 46812
Next Action Undetermined.		

#### *Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Michele Berlove, Special Counsel, Competition Policy Div., WCB, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-1477, *Email:* michele.berlove@fcc.gov, *RIN:* 3060-AK32

#### **343. Implementation of the Universal Service Portions of the 1996 Telecommunications Act**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 *et seq.*

*Abstract:* The Telecommunications Act of 1996 expanded the traditional goal of universal service to include increased access to both telecommunications and advanced services such as high-speed internet for all consumers at just, reasonable and affordable rates. The Act established principles for universal service that specifically focused on increasing access to evolving services for consumers living in rural and insular areas, and for consumers with low-incomes. Additional principles called for increased access to high-speed internet in the nation's schools, libraries, and rural healthcare facilities.

The FCC established four programs within the Universal Service Fund to implement the statute: Connect America Fund (formally known as High-Cost Support) for rural areas; Lifeline (for low-income consumers), including initiatives to expand phone service for Native Americans; Schools and Libraries (E-rate); and Rural Healthcare.

The Universal Service Fund is paid for by contributions from telecommunications carriers, including wireline and wireless companies, and interconnected Voice over Internet Protocol (VoIP) providers, including cable companies that provide voice service, based on an assessment on their interstate and international end-user revenues. The Universal Service Administrative Company, or USAC, administers the four programs and collects monies for the Universal Service Fund under the direction of the FCC.

On April 19, 2018, the Commission decided the legacy support issue arising from the ongoing reform and modernization of the universal service fund and intercarrier compensation systems.

On May 29, 2018, the Commission approved additional funding to restore communications networks in Puerto Rico and the Virgin Islands and sought comment on almost \$900 million in long-term funding for network expansion.

On June 25, 2018, the Commission addressed the current funding shortfall in the Rural Healthcare Program by raising the annual program budget cap to \$571 million.

On January 31, 2019, the Commission temporarily waived the E-Rate amortization requirement and proposed to eliminate the requirement.

On July 11, 2019, the Commission brought Telehealth services to low-income patients, veterans and areas lacking adequate health care.

On August 2, 2019, the Commission targeted areas with at least 4 million rural homes, small businesses that lacked modern broadband service.

On August 20, 2019, the Commission increased transparency, predictability, and efficiency of RHC program funding decisions.

On September 30, 2019, the Commission investment was boosted high-speed internet access on islands.

On October 31, 2019, the Commission took steps to enforce quality standards for Rural Broadband Networks and provided additional flexibility to reduce burden on companies.

On November 15, 2019, the Commission further Strengthened

Lifeline Against Waste, Fraud, and Abuse.

On December 3, 2019, the Commission acted to speed the deployment of Wi-Fi in schools and Libraries.

*Timetable:*

Action	Date	FR Cite
R&O and FNPRM	01/13/17	82 FR 4275
NPRM Comment Period End.	02/13/17	
NPRM Reply Comment Period End.	02/27/17	
R&O and Order on Recon.	03/21/17	82 FR 14466
Order on Recon ..	05/19/17	82 FR 22901
Order on Recon ..	06/08/17	82 FR 26653
Memorandum, Opinion & Order.	06/21/17	82 FR 228224
NPRM .....	07/30/19	84 FR 36865
NPRM .....	08/21/19	84 FR 43543
R&O and Order on Recon.	11/07/19	84 FR 59937
Order on Recon ..	12/09/19	84 FR 67220
R&O .....	12/20/19	84 FR 70026
R&O .....	12/27/19	84 FR 71308
R&O .....	01/17/20	85 FR 3044
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Nakesha Woodward, Program Support Assistant, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-1502, *Email:* [kesha.woodward@fcc.gov](mailto:kesha.woodward@fcc.gov).

*RIN:* 3060-AK57

**344. Toll Free Assignment Modernization and Toll Free Service Access Codes: WC Docket No. 17-192, CC Docket No. 95-155**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 201(b); 47 U.S.C. 251(e)(1)

*Abstract:* In this Report and Order (Order), the Federal Communications Commission (FCC) initiates an auction to distribute certain toll free numbers. The numbers to be auctioned will be in the new 833 toll free code for which there have been multiple, competing requests.

By using an auction, the FCC will ensure that sought-after numbers are awarded to the parties that value them most. In addition, the FCC will reserve certain 833 numbers for distribution to government and non-profit entities that request them for public health and safety purposes. The FCC will study the results of the auction to determine how to best use the mechanism to distribute

toll-free numbers equitably and efficiently in the future as well. Revenues from the auction will be used to defray the cost of toll-free numbering administration, reducing the cost of numbering for all users. The Order establishing the toll-free number auction will also authorize and accommodate the use of a secondary market for numbers awarded at auction to further distribute these numbers to the entities that value them most. The Order also adopted several definitional and technical updates to improve clarity and flexibility in toll-free number assignment.

The Commission sought comment and then adopted auctions procedures and deadlines on August 2, 2019. Bidding for the auction occurred on December 17, 2019, and Somas issued an announcement of the winning bidders on December 20, 2019. On December 16, 2019, to facilitate the preparation of its study of the auction, the Bureau charged the North American Numbering Council, via its Toll Free Access Modernization Working Group, to issue a report evaluating various aspects of the 833 Auction, and recommending improvements for any future toll free number auctions.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/13/17	82 FR 47669
NPRM Comment Period End.	11/13/17	
Final Rule .....	10/23/18	83 FR 53377
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Matthew Collins, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7141, *Email:* [matthew.collins@fcc.gov](mailto:matthew.collins@fcc.gov).

*RIN:* 3060-AK91

**345. • Call Authentication Trust Anchor**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 201; 47 U.S.C. 251

*Abstract:* On July 13, 2017, the Commission issued a Notice of Inquiry that sought comment on a number of issues involving voice service providers adopting a call authentication system. (WC Docket No. 17-97) First, the Commission sought comment on how a call authentication system would be governed, including: (1) The Commission's role in requiring, encouraging, or enabling a call authentication system; (2) who or what



entities should set the rules and procedures for the system; and (3) what criteria those entities should set for who may be qualified to issue certificates and serve as an authenticating telephone service provider. The Commission also sought comment on technical implementation and operation of the authentication system, including: (1) How the service providers or telephone numbers to be authenticated should be enrolled in the system; and (2) what alternatives might exist for certain specific technical and structural proposals of the system. The Commission further sought comment on the scope and policy effects of a call authentication system, including: (1) Whether and how the system can address call authentication issues on legacy systems; (2) how a U.S.-based call authentication system might integrate with the systems of other countries; (3) other policy effects of a call authentication system, including effects upon privacy and security; and (4) the potential costs and benefits of the system, including how it may be funded.

In a November 5, 2018 Press Release, the FCC Chairman called on voice service providers to deploy the SHAKEN/STIR call authentication standards into their networks over the next year. On June 6, 2019, the Commission adopted a Notice of Proposed Rulemaking that proposed requiring voice service providers to implement the SHAKEN/STIR caller ID authentication framework, if major voice service providers fail to do so by the end of 2019. (WC Docket No. 17–97)

In December 2019, Congress enacted the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act. Along with numerous other provisions directed at addressing robocalls, the TRACED Act directs the Commission to require all voice service providers to implement STIR/SHAKEN in the IP portions of their networks, and to implement an effective caller ID authentication framework in the non-IP portions of their networks. The TRACED Act further creates processes by which voice service providers may be exempt from this mandate if the Commission determines they have achieved certain implementation benchmarks, and by which voice service providers may be granted a delay in compliance based on a finding of undue hardship because of burdens or barriers to implementation or based on a delay in development of a caller ID authentication protocol for calls delivered over non-IP networks.

*Timetable:*

Action	Date	FR Cite
NOI .....	07/14/17	84 FR 29478
NPRM .....	06/24/19	
NPRM Comment Period End.	08/23/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Matthew Collins, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–7141, *Email:* matthew.collins@fcc.gov.  
*RIN:* 3060–AL00

### 346. • Implementation of the National Suicide Improvement Act of 2018

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 201; 47 U.S.C. 251

*Abstract:* On August 14, 2018, Congress passed the National Suicide Hotline Improvement Act (Act). Public Law 115–233, 132 Stat. 2424 (2018). The purpose of the Act was to study and report on the feasibility of designating a 3-digit dialing code to be used for a national suicide prevention and mental health crisis hotline system by considering each of the current N11 designations. The Act directed the Commission to: (1) Conduct a study that examines the feasibility of designating a simple, easy-to-remember, 3-digit dialing code to be used for a national suicide prevention and mental health crisis hotline system; and (2) analyze how well the current National Suicide Prevention Lifeline is working to address the needs of veterans. The Act also directed the Commission to coordinate with the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA), the Secretary of Veterans Affairs, and the North American Numbering Council (NANC) in conducting the study, and to produce a report on the study by August 14, 2019.

On August 14, 2019, the Wireline Competition Bureau and Office of Economics and Analytics submitted its report to Congress recommending that: (1) A 3-digit dialing code be used for a national suicide prevention and mental health crisis hotline system; and (2) the Commission should initiate a rulemaking proceeding to consider designating 988 as the 3-digit code.

On December 12, 2019, the Commission released a notice of proposed rulemaking (NPRM) proposing to designate 988 as a new, nationwide,

3-digit dialing code for a suicide prevention and mental health crisis hotline. WC Docket No. 18–336. The NPRM proposes that calls made to 988 be directed to the existing National Suicide Prevention Lifeline, which is made up of an expansive network of over 170 crisis centers located across the United States, and to the Veterans Crisis Line. The NPRM also proposes to require all telecommunications carriers and interconnected VoIP service providers to make, within 18 months, any changes necessary to ensure that users can dial 988 to reach the National Suicide Prevention Lifeline and Veterans Crisis Line.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/15/20	85 FR 2359
NPRM Comment Period End.	03/16/20	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Michelle Sclater, Attorney, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–0388, *Email:* michelle.sclater@fcc.gov.  
*RIN:* 3060–AL01

### 347. • Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 10; 47 U.S.C. 251

*Abstract:* On November 22, 2019, the Commission adopted a Notice of Proposed Rulemaking (NPRM) seeking comment on proposals to update the unbundling and avoided-cost resale obligations stemming from the 1996 Act and applicable only to incumbent LECs. Many of these obligations appear to no longer be necessary in many geographic areas due to vigorous competition for mass market broadband services in urban areas and numerous intermodal voice capabilities and services. But recognizing that rural areas pose special challenges for broadband deployment, the NPRM does not propose any change to unbundling requirements for broadband-capable loops in rural areas. The NPRM seeks to promote the Commission's efforts to reduce unnecessary and outdated regulatory burdens that appear to discourage the deployment of next-generation networks, delay the IP transition, unnecessarily burden incumbent LECs with no similar obligations placed on



their competitors, and no longer benefit consumers or serve the purpose for which they were intended.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End. Next Action Unde- termined.	01/06/20 03/06/20	85 FR 472

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Michele Berlove, Special Counsel, Competition Policy Div., WCB, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-1477, *Email:* michele.berlove@fcc.gov.

*RIN:* 3060-AL02

**348. • Deregulation and Detariffing of Retail Access Charges**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 160; 47 U.S.C. 201 to 203; 47 U.S.C. 214; 47 U.S.C. 225; 47 U.S.C. 251; 47 U.S.C. 254; 47 U.S.C. 303(r); 47 U.S.C. 616

*Abstract:* The NPRM proposes to deregulate and detariff Retail Access Charges, which represent the last handful of interstate end-user charges that remain subject to regulation. The Notice also proposes to prohibit all carriers from separately listing Retail Access Charges on customers' bills. Because of the relationship between these Retail Access Charges and the Federal Universal Service Fund and other federal programs, this Notice also

proposes and seeks comment on ways to prevent any adverse impacts of the proposals on these programs.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End. Next Action Unde- termined.	05/00/00	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Victoria Goldberg, Attorney-Advisor, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7353, *Email:* victoria.goldberg@fcc.gov.

*RIN:* 3060-AL03

[FR Doc. 2020-16769 Filed 8-25-20; 8:45 am]

**BILLING CODE 6712-01-P**





# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XXVI

Federal Reserve System

---

Semiannual Regulatory Agenda

**FEDERAL RESERVE SYSTEM****12 CFR Ch. II****Semiannual Regulatory Flexibility Agenda**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The Board is issuing this agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period May 1, 2020, through October 31, 2020. The next agenda will be published in fall 2020.

**DATES:** Comments about the form or content of the agenda may be submitted any time during the next 6 months.

**ADDRESSES:** Comments should be addressed to Ann E. Misback, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

**FOR FURTHER INFORMATION CONTACT:** A staff contact for each item is indicated with the regulatory description below.

**SUPPLEMENTARY INFORMATION:** The Board is publishing its spring 2020 agenda as part of the Spring 2020 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The agenda also identifies rules the Board has selected for review under section 610(c) of the Regulatory Flexibility Act, and public comment is invited on those entries. The complete Unified Agenda will be available to the public at the following website: [www.reginfo.gov](http://www.reginfo.gov). Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board's agenda is divided into five sections. The first, Pre-rule Stage, reports on matters the Board is considering for future rulemaking. The second, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next 6 months. The third section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. The fourth section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further. And a fifth section, Long-Term Actions, reports on matters where the next action is undetermined, 00/00/0000, or will occur more than 12 months after publication of the Agenda. A dot (•) preceding an entry indicates a new matter that was not a part of the Board's previous agenda.

**Yao-Chin Chao,**  
Assistant Secretary of the Board.

**FEDERAL RESERVE SYSTEM—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
349 .....	Source of Strength ( <b>Section 610 Review</b> ) .....	7100-AE73
350 .....	Regulation LL—Savings and Loan Holding Companies and Regulation MM—Mutual Holding Companies (Docket No: R-1429).	7100-AD80

**FEDERAL RESERVE SYSTEM (FRS)****Long-Term Actions****349. Source of Strength (Section 610 Review)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 12 U.S.C. 1831(o)

*Abstract:* The Board of Governors of the Federal Reserve System (Board), the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC) plan to issue a proposed rule to implement section 616(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Section 616(d) requires that bank holding companies, savings and loan holding companies, and other companies that directly or indirectly control an insured depository institution serve as a source of strength for the insured depository institution.

*Timetable:*

Action	Date	FR Cite
Next Action Undetermined.	To Be Determined	

*Regulatory Flexibility Analysis Required:* Undetermined.

*Agency Contact:* Melissa Clark, Lead Financial Institution Policy Analyst,

Federal Reserve System, Division of Supervision and Regulation, Washington, DC 20551, *Phone:* 202 452-2277.

Barbara Bouchard, Senior Associate Director, Federal Reserve System, Division of Supervision and Regulation, Washington, DC 20551, *Phone:* 202 452-3072.

Jay Schwarz, Special Counsel, Federal Reserve System, Legal Division, Washington, DC 20551, *Phone:* 202 452-2970.

Claudia Von Pervieux, Senior Counsel, Federal Reserve System, Legal Division, Washington, DC 20551, *Phone:* 202 452-2552.

*RIN:* 7100-AE73

**350. Regulation LL—Savings and Loan Holding Companies and Regulation MM—Mutual Holding Companies (Docket No: R-1429)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 5 U.S.C. 552; 5 U.S.C. 559; 5 U.S.C. 1813; 5 U.S.C. 1817; 5 U.S.C. 1828

*Abstract:* The Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) transferred responsibility for supervision of Savings and Loan Holding Companies (SLHCs) and their non-depository subsidiaries

from the Office of Thrift Supervision (OTS) to the Board of Governors of the Federal Reserve System (the Board), on July 21, 2011. The Act also transferred supervisory functions related to Federal savings associations and State savings associations to the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC), respectively. The Board on August 12, 2011, approved an interim final rule for SLHCs, including a request for public comment. The interim final rule transferred from the OTS to the Board the regulations necessary for the Board to supervise SLHCs, with certain technical and substantive modifications. The interim final rule has three components: (1) New Regulation LL (part 238), which sets forth regulations generally governing SLHCs; (2) new Regulation MM (part 239), which sets forth regulations governing SLHCs in mutual form; and (3) technical amendments to existing Board regulations necessary to accommodate the transfer of supervisory authority for SLHCs from the OTS to the Board. The structure of interim final Regulation LL closely follows that of the Board's Regulation Y, which governs bank holding companies, in order to provide an overall structure to rules that

were previously found in disparate locations. In many instances, interim final Regulation LL incorporated OTS regulations with only technical modifications to account for the shift in supervisory responsibility from the OTS to the Board. Interim final Regulation LL also reflects statutory changes made by the Dodd-Frank Act with respect to SLHCs, and incorporates Board precedent and practices with respect to applications processing procedures and control issues, among other matters. Interim final Regulation MM organized existing OTS regulations governing SLHCs in mutual form (MHCs) and their subsidiary holding companies into a single part of the Board's regulations. In many instances, interim final Regulation MM incorporated OTS regulations with only technical modifications to account

for the shift in supervisory responsibility from the OTS to the Board. Interim final Regulation MM also reflects statutory changes made by the Dodd-Frank Act with respect to MHCs. The interim final rule also made technical amendments to Board rules to facilitate supervision of SLHCs, including to rules implementing Community Reinvestment Act requirements and to Board procedural and administrative rules. In addition, the Board made technical amendments to implement section 312(b)(2)(A) of the Act, which transfers to the Board all rulemaking authority under section 11 of the Home Owner's Loan Act relating to transactions with affiliates and extensions of credit to executive officers, directors, and principal shareholders. These amendments

include revisions to parts 215 (Insider Transactions) and part 223 (Transactions with Affiliates) of Board regulations.

*Timetable:*

Action	Date	FR Cite
Board Requested Comment.	09/13/11	76 FR 56508
Board Expects Further Action.	12/00/21	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Keisha Patrick, Special Counsel, Federal Reserve System, Legal Division, Washington, DC 20551, *Phone:* 202 452-3559.

*RIN:* 7100-AD80

[FR Doc. 2020-16752 Filed 8-25-20; 8:45 am]

**BILLING CODE 6210-01-P**



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XXVII

National Labor Relations Board

---

Semiannual Regulatory Agenda



**NATIONAL LABOR RELATIONS BOARD****29 CFR Parts 101, 102, and 103****Unified Agenda of Federal Regulatory and Deregulatory Actions**

**AGENCY:** National Labor Relations Board.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The following agenda of the National Labor Relations Board (NLRB) is published in accordance with Executive Order 12866, "Regulatory Planning and Review," and the

Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, as amended by the Small Business Regulatory Enforcement Fairness Act.

The complete Unified Agenda is available online at [www.reginfo.gov](http://www.reginfo.gov). Publication in the **Federal Register** is mandated only for regulatory flexibility agendas required under the RFA. Because the RFA does not require regulatory flexibility agendas for the regulations proposed and issued by the Board, the Board's agenda appears only on the internet at [www.reginfo.gov](http://www.reginfo.gov).

The Board's agenda refers to [www.regulations.gov](http://www.regulations.gov), the Government website at which members of the public

can find, review, and comment on Federal rulemakings that are published in the **Federal Register** and open for comment.

**FOR FURTHER INFORMATION CONTACT:** For further information concerning the regulatory actions listed in the agenda, contact Farah Z. Qureshi, Deputy Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570; telephone 202–273–1949, TTY/TDD 1–800–315–6572; email [Farah.Qureshi@nrlrb.gov](mailto:Farah.Qureshi@nrlrb.gov).

**Farah Z. Qureshi,**  
Deputy Executive Secretary.

**NATIONAL LABOR RELATIONS BOARD—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
351 .....	Joint-Employer Rulemaking .....	3142-AA13
352 .....	Blocking Charge, Voluntary Recognition, and 9(a) .....	3142-AA16

**NATIONAL LABOR RELATIONS BOARD (NLRB)****Completed Actions****351. Joint-Employer Rulemaking**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 29 U.S.C. 156

*Abstract:* The National Labor Relations Board will be engaging in rulemaking to establish the standard for determining joint-employer status under the National Labor Relations Act.

*Completed:*

Reason	Date	FR Cite
Final Rule .....	02/26/20	85 FR 11184
Final Rule Effective.	04/27/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Roxanne Rothschild, Phone: 202 273–2917, Email: [roxanne.rothschild@nrlrb.gov](mailto:roxanne.rothschild@nrlrb.gov).

Farah Qureshi, Phone: 202 273–1949, Email: [farah.qureshi@nrlrb.gov](mailto:farah.qureshi@nrlrb.gov), RIN: 3142-AA13

**352. Blocking Charge, Voluntary Recognition, and 9(a)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 29 U.S.C. 156

*Abstract:* The National Labor Relations Board (the Board) will be revising the representation election regulations located at 29 CFR part 103, with a specific focus on revisions of the Board's current election bar policies.

*Completed:*

Reason	Date	FR Cite
Final Rule .....	04/01/20	85 FR 18366
Final Rule; Delay of Effective Date.	04/10/20	85 FR 20156
Final Rule; Delay of Effective Date Effective.	07/31/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Farah Qureshi, Phone: 202 273–1949, Email: [farah.qureshi@nrlrb.gov](mailto:farah.qureshi@nrlrb.gov).

Roxanne Rothschild, Phone: 202 273–2917, Email: [roxanne.rothschild@nrlrb.gov](mailto:roxanne.rothschild@nrlrb.gov).

RIN: 3142-AA16

[FR Doc. 2020–16770 Filed 8–25–20; 8:45 am]

**BILLING CODE 7545–01–P**





# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XXVIII

Nuclear Regulatory Commission

---

Semiannual Regulatory Agenda

**NUCLEAR REGULATORY COMMISSION**

[NRC–2020–0052]

**10 CFR Ch. I****Unified Agenda of Federal Regulatory and Deregulatory Actions****AGENCY:** Nuclear Regulatory Commission.**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** We are publishing our semiannual regulatory agenda (the Agenda) in accordance with Public Law 96–354, “The Regulatory Flexibility Act,” and Executive Order 12866, “Regulatory Planning and Review.” The NRC’s complete Agenda, available on the Office of Management and Budget’s website at <https://www.reginfo.gov>, is a compilation of all rulemaking activities on which we have recently completed action or have proposed or are considering action. We have completed 10 rulemaking activities since publication of our last Agenda on December 26, 2019 (84 FR 71282). This issuance of our Agenda contains 30 active and 22 long-term rulemaking activities: 3 are Economically Significant; 12 represent Other Significant agency priorities; 34 are Substantive, Nonsignificant rulemaking activities; and 3 are Administrative rulemaking activities. In addition, 3 rulemaking activities impact small entities. We are requesting comment on the rulemaking activities as identified in this Agenda.

**DATES:** Submit comments on rulemaking activities as identified in this Agenda September 25, 2020.

**ADDRESSES:** Submit comments on any rulemaking activity in the Agenda by the date and methods specified in the **Federal Register** notice for the rulemaking activity. Comments received on rulemaking activities for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before the closure date specified in the **Federal Register** notice. You may submit comments on this Agenda through the Federal Rulemaking website by going to <https://www.regulations.gov> and searching for Docket ID NRC–2020–0052. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the

**SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:**

Cindy Bladey, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–3280; email: [Cindy.Bladey@nrc.gov](mailto:Cindy.Bladey@nrc.gov). Persons outside the Washington, DC, metropolitan area may call, toll-free: 1–800–368–5642. For further information on the substantive content of any rulemaking activity listed in the Agenda, contact the individual listed under the heading “Agency Contact” for that rulemaking activity.

**SUPPLEMENTARY INFORMATION:****Obtaining Information and Submitting Comments****A. Obtaining Information**

Please refer to Docket ID NRC–2020–0052 when contacting the NRC about the availability of information for this document. You may obtain publically-available information related to this document by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC–2020–0052.
- **Attention:** The Public Document Room (PDR), where you may examine and order copies of public documents is currently closed. You may submit your request to the PDR via email at [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov) or call 1–800–397–4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.
- **Reginfo.gov:**
  - For completed rulemaking activities go to <https://www.reginfo.gov/public/do/eAgendaMain>, select link for “Current Long Term Actions”, and select “Nuclear Regulatory Commission” from drop down menu.

**B. Submitting Comments**

Please include Docket ID NRC–2020–0052 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into the NRC’s Agencywide Documents Access and Management System (ADAMS). The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include

identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

**Introduction**

The Agenda is a compilation of all rulemaking activities on which an agency has recently completed action or has proposed or is considering action. The Agenda reports rulemaking activities in three major categories: Completed, active, and long-term. Completed rulemaking activities are those that were completed since publication of an agency’s last Agenda; active rulemaking activities are those for which an agency currently plans to have an Advance Notice of Proposed Rulemaking, a Proposed Rule, or a Final Rule issued within the next 12 months; and long-term rulemaking activities are rulemaking activities under development but for which an agency does not expect to have a regulatory action within the 12 months after publication of the current edition of the Unified Agenda.

The NRC assigns a “Regulation Identifier Number” (RIN) to a rulemaking activity when the Commission initiates a rulemaking and approves a rulemaking plan, or when the NRC staff begins work on a Commission-delegated rulemaking that does not require a rulemaking plan. The Office of Management and Budget uses this number to track all relevant documents throughout the entire “lifecycle” of a particular rulemaking activity. The NRC reports all rulemaking activities in the Agenda that have been assigned a RIN and meet the definition for a completed, an active, or a long-term rulemaking activity.

The information contained in this Agenda is updated to reflect any action that has occurred on a rulemaking activity since publication of our last Agenda on December 26, 2019 (84 FR 71282). Specifically, the information in this Agenda has been updated through March 5, 2020. The NRC provides additional information on planned rulemaking and petition for rulemaking activities, including priority and schedule, on our website at <https://www.nrc.gov/about-nrc/regulatory/rulemaking/rules-petitions.html#cpplist>.

The date for the next scheduled action under the heading “Timetable” is the date the next regulatory action for the rulemaking activity is scheduled to be published in the **Federal Register**. The

date is considered tentative and is not binding on the Commission or its staff. The Agenda is intended to provide the public early notice and opportunity to participate in our rulemaking process. However, we may consider or act on any rulemaking activity even though it is not included in the Agenda.

#### Section 610 Periodic Reviews Under the Regulatory Flexibility Act

Section 610 of the Regulatory Flexibility Act (RFA) requires agencies to conduct a review within 10 years of issuance of those regulations that have or will have a *significant* economic impact on a *substantial* number of small

entities. We undertake these reviews to decide whether the rules should be unchanged, amended, or withdrawn. At this time, we do not have any rules that have a *significant* economic impact on a *substantial* number of small entities; therefore, we have not included any RFA Section 610 periodic reviews in this edition of the Agenda. A complete listing of our regulations that impact small entities and related Small Entity Compliance Guides are available from the NRC's website at <https://www.nrc.gov/about-nrc/regulatory/rulemaking/flexibility-act/small-entities.html>.

#### Public Comments Received on NRC Unified Agenda

The comment period on the NRC's last Agenda (published on December 26, 2019, (84 FR 71282)) closed on January 27, 2020. We received one comment; we determined it was out of the scope of the NRC's semi-annual review.

Dated at Rockville, Maryland, this 5th day of March, 2020.

For the Nuclear Regulatory Commission.

**Cindy Bladey,**

Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.

#### NUCLEAR REGULATORY COMMISSION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
353 .....	Revision of Fee Schedules: Fee Recovery for FY 2021 [NRC–2018–0292] .....	3150–AK24

#### NUCLEAR REGULATORY COMMISSION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
354 .....	Revision of Fee Schedules: Fee Recovery for FY 2020 [NRC–2017–0228] .....	3150–AK10

#### NUCLEAR REGULATORY COMMISSION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
355 .....	Revision of Fee Schedules: Fee Recovery for FY 2022 [NRC–2020–0031] .....	3150–AK44

#### NUCLEAR REGULATORY COMMISSION (NRC)

##### Proposed Rule Stage

##### 353. Revision of Fee Schedules: Fee Recovery for FY 2021 [NRC–2018–0292]

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 31 U.S.C. 483; 42 U.S.C. 2201; 42 U.S.C. 2214; 42 U.S.C. 5841

*Abstract:* This rulemaking would amend the NRC's regulations for fee schedules. The NRC conducts this rulemaking annually to recover approximately 100 percent of the NRC's FY 2021 budget authority, less excluded activities to implement NEIMA. This rulemaking would affect the fee schedules for licensing, inspection, and annual fees charged to the NRC's applicants and licensees.

##### Timetable:

Action	Date	FR Cite
NPRM .....	01/00/21	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Anthony Rossi, Nuclear Regulatory Commission, Office of the Chief Financial Officer, Washington, DC 20555–0001, *Phone:* 301 415–7341, *Email:* [anthony.rossi@nrc.gov](mailto:anthony.rossi@nrc.gov).

*RIN:* 3150–AK24

#### NUCLEAR REGULATORY COMMISSION (NRC)

##### Final Rule Stage

##### 354. Revision of Fee Schedules: Fee Recovery for FY 2020 [NRC–2017–0228]

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 31 U.S.C. 483; 42 U.S.C. 2201; 42 U.S.C. 2214; 42 U.S.C. 5841

*Abstract:* This rulemaking would amend the NRC's regulations for fee schedules. The NRC conducts this rulemaking annually to recover approximately 90 percent of its budget authority in a given fiscal year to

implement the Omnibus Budget Reconciliation Act of 1990, as amended. This rulemaking would affect the fee schedules for licensing, inspection, and annual fees charged to the NRC's applicants and licensees.

##### Timetable:

Action	Date	FR Cite
NPRM .....	02/18/20	85 FR 9328
NPRM Comment Period End.	03/19/20	
Final Rule .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Anthony Rossi, Nuclear Regulatory Commission, Office of the Chief Financial Officer, Washington, DC 20555–0001, *Phone:* 301 415–7341, *Email:* [anthony.rossi@nrc.gov](mailto:anthony.rossi@nrc.gov).

*RIN:* 3150–AK10

NUCLEAR REGULATORY COMMISSION (NRC)

Long-Term Actions

355. • Revision of Fee Schedules: Fee Recovery for FY 2022 [NRC-2020-0031]

E.O. 13771 Designation: Independent agency.

Legal Authority: 31 U.S.C. 483; 42 U.S.C. 2201; 42 U.S.C. 2214; 42 U.S.C. 5841

Abstract: This rulemaking would amend the NRC’s regulations for fee schedules. The NRC conducts this

rulemaking annually to recover approximately 100 percent of the NRC’s FY 2022 budget authority, less excluded activities to implement NEIMA. This rulemaking would affect the fee schedules for licensing, inspection, and annual fees charged to the NRC’s applicants and licensees.

Timetable:

Action	Date	FR Cite
NPRM .....	02/00/22	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Anthony Rossi, Nuclear Regulatory Commission, Office of the Chief Financial Officer, Washington, DC 20555-0001, Phone: 301 415-7341, Email: anthony.rossi@nrc.gov.

[FR Doc. 2020-16755 Filed 8-25-20; 8:45 am]

BILLING CODE7590-01-P



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XXIX

Securities and Exchange Commission

---

Semiannual Regulatory Agenda

**SECURITIES AND EXCHANGE COMMISSION****17 CFR Ch. II**

[Release Nos. 33–10769, 34–88531, IA–5470, IC–33833, File No. S7–06–20]

**Regulatory Flexibility Agenda**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The Securities and Exchange Commission is publishing the Chairman's agenda of rulemaking actions pursuant to the Regulatory Flexibility Act (RFA) (Pub. L. 96–354, 94 Stat. 1164) (Sep. 19, 1980). The items listed in the Regulatory Flexibility Agenda for Spring 2020 reflect only the priorities of the Chairman of the U.S. Securities and Exchange Commission, and do not necessarily reflect the view and priorities of any individual Commissioner.

Information in the agenda was accurate on March 31, 2020, the date on which the Commission's staff completed compilation of the data. To the extent possible, rulemaking actions by the Commission since that date have been reflected in the agenda. The Commission invites questions and public comment on the agenda and on the individual agenda entries.

The Commission is now printing in the **Federal Register**, along with our preamble, only those agenda entries for which we have indicated that preparation of an RFA analysis is required.

The Commission's complete RFA agenda will be available online at [www.reginfo.gov](http://www.reginfo.gov).

**DATES:** Comments should be received on or before September 25, 2020.

**ADDRESSES:** Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/other.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number S7–06–20 on the subject line.

*Paper Comments*

- Send paper comments to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090. All submissions should refer to File No. S7–06–20. This file number should be included on the subject line if email is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/other.shtml>). Comments are also available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

**FOR FURTHER INFORMATION CONTACT:** William Miller, Office of the General Counsel, 202–551–8372.

**SUPPLEMENTARY INFORMATION:** The RFA requires each Federal agency, twice each year, to publish in the **Federal Register** an agenda identifying rules that the agency expects to consider in the next 12 months that are likely to have

a significant economic impact on a substantial number of small entities (5 U.S.C. 602(a)). The RFA specifically provides that publication of the agenda does not preclude an agency from considering or acting on any matter not included in the agenda and that an agency is not required to consider or act on any matter that is included in the agenda (5 U.S.C. 602(d)). The Commission may consider or act on any matter earlier or later than the estimated date provided on the agenda. While the agenda reflects the current intent to complete a number of rulemakings in the next year, the precise dates for each rulemaking at this point are uncertain. Actions that do not have an estimated date are placed in the long-term category; the Commission may nevertheless act on items in that category within the next 12 months. The agenda includes new entries, entries carried over from prior publications, and rulemaking actions that have been completed (or withdrawn) since publication of the last agenda.

The following abbreviations for the acts administered by the Commission are used in the agenda:

“Securities Act”—Securities Act of 1933  
“Exchange Act”—Securities Exchange Act of 1934

“Investment Company Act”—Investment Company Act of 1940  
“Investment Advisers Act”—Investment Advisers Act of 1940

“Dodd Frank Act”—Dodd-Frank Wall Street Reform and Consumer Protection Act

The Commission invites public comment on the agenda and on the individual agenda entries.

By the Commission.

Dated: April 1, 2020.

**Vanessa A. Countryman,**  
*Secretary.*

**DIVISION OF CORPORATION FINANCE—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
356 .....	Listing Standards for Recovery of Erroneously Awarded Compensation .....	3235–AK99
357 .....	Mandated Electronic Filings .....	3235–AM15
358 .....	Amendments to Rule 701/Form S–8 .....	3235–AM38

**DIVISION OF CORPORATION FINANCE—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
359 .....	Amendments to Financial Disclosures About Acquired Businesses .....	3235–AL77
360 .....	Universal Proxy .....	3235–AL84
361 .....	Filing Fee Disclosure and Payment Methods Modernization .....	3235–AL96
362 .....	Amending the “Accredited Investor” Definition .....	3235–AM19
363 .....	Harmonization of Exempt Offerings .....	3235–AM27
364 .....	Procedural Requirements and Resubmission Thresholds Under Exchange Act Rule 14a-8 .....	3235–AM49

## DIVISION OF CORPORATION FINANCE—FINAL RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
365 .....	Amendments to Exemptions From the Proxy Rules for Proxy Voting Advice .....	3235-AM50

## DIVISION OF CORPORATION FINANCE—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
366 .....	Pay Versus Performance .....	3235-AL00
367 .....	Corporate Board Diversity .....	3235-AL91

## DIVISION OF CORPORATION FINANCE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
368 .....	Amendments to the Financial Disclosures for Registered Debt Security Offerings .....	3235-AM12
369 .....	Regulation Crowdfunding Amendments .....	3235-AM20
370 .....	Regulation A Amendments .....	3235-AM21
371 .....	Solicitations of Interest Prior to a Registered Public Offering .....	3235-AM23
372 .....	Accelerated Filer Definition .....	3235-AM41

## DIVISION OF INVESTMENT MANAGEMENT—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
373 .....	Investment Company Summary Shareholder Report and Modernization of Certain Investment Company Disclosure.	3235-AM52
374 .....	Amendments to Form 13F Filer Threshold .....	3235-AM65
375 .....	Amendments to the Family Office Rule .....	3235-AM67
376 .....	Amendments to Rule 17a-7 Under the Investment Company Act .....	3235-AM69
377 .....	Investment Company Fair Value .....	3235-AM71

## DIVISION OF INVESTMENT MANAGEMENT—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
378 .....	Use of Derivatives by Registered Investment Companies and Business Development Companies .....	3235-AL60
379 .....	Investment Adviser Advertisements; Compensation for Solicitations .....	3235-AM08
380 .....	Fund of Funds Arrangements .....	3235-AM29
381 .....	Amendments to Procedures for Applications under the Investment Company Act .....	3235-AM51

## DIVISION OF INVESTMENT MANAGEMENT—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
382 .....	Reporting of Proxy Votes on Executive Compensation and Other Matters .....	3235-AK67
383 .....	Amendments to the Custody Rules for Investment Companies .....	3235-AM66
384 .....	Amendments to Improve Fund Proxy System .....	3235-AM73

## DIVISION OF INVESTMENT MANAGEMENT—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
385 .....	Offering Reform for Business Development Companies Under the Small Business Credit Availability Act and Closed-End Funds Under the Economic Growth, Regulatory Relief, and Consumer Protection Act.	3235-AM31

## DIVISION OF TRADING AND MARKETS—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
386 .....	Removal of Certain References to Credit Ratings Under the Securities Exchange Act of 1934 .....	3235–AL14

## OFFICES AND OTHER PROGRAMS—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
387 .....	Amendments to Certain Provisions of the Auditor Independence Rules .....	3235–AM63

**SECURITIES AND EXCHANGE COMMISSION (SEC)***Division of Corporation Finance*

## Proposed Rule Stage

**356. Listing Standards for Recovery of Erroneously Awarded Compensation**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* Pub. L. 111–203, sec. 954; 15 U.S.C. 78j–4

*Abstract:* The Commission proposed rules to implement section 954 of the Dodd Frank Act, which requires the Commission to adopt rules to direct national securities exchanges to prohibit the listing of securities of issuers that have not developed and implemented a policy providing for disclosure of the issuer's policy on incentive-based compensation and mandating the clawback of such compensation in certain circumstances.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/14/15	80 FR 41144
NPRM Comment Period End.	09/14/15	
Second NPRM ....	10/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Anne M. Krauskopf, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551–3500, *Email:* [krauskopfa@sec.gov](mailto:krauskopfa@sec.gov).

*RIN:* 3235–AK99

**357. Mandated Electronic Filings**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77d; 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77h; 15 U.S.C. 77j; 15 U.S.C. 77s(a); 15 U.S.C. 78c; 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78n; 15 U.S.C. 78o(d); 15 U.S.C. 78p; 15 U.S.C. 78w(a); 15 U.S.C. 78ll

*Abstract:* The Division is considering recommending that the Commission propose amendments to Regulation S–T

that would update the mandated electronic submissions requirements to include additional filings.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Sean Harrison, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551–3430, *Email:* [harrisons@sec.gov](mailto:harrisons@sec.gov).

*RIN:* 3235–AM15

**358. Amendments to Rule 701/Form S–8**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77bb

*Abstract:* The Division is considering recommending that the Commission propose rule amendments to Securities Act Rule 701, the exemption from registration for securities issued by non-reporting companies pursuant to compensatory arrangements, and Form S–8, the registration statement for compensatory offerings by reporting companies.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	07/24/18	83 FR 34958
ANPRM Comment Period End.	09/24/18	
NPRM .....	10/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Anne M. Krauskopf, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551–3500, *Email:* [krauskopfa@sec.gov](mailto:krauskopfa@sec.gov).

*RIN:* 3235–AM38

**SECURITIES AND EXCHANGE COMMISSION (SEC)***Division of Corporation Finance*

## Final Rule Stage

**359. Amendments to Financial Disclosures About Acquired Businesses**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C. 77s(a); 15 U.S.C. 77z–3; 15 U.S.C. 78c(b); 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78o(d); 15 U.S.C. 78w(a); 15 U.S.C. 778mm; 15 U.S.C. 77c; 15 U.S.C. 77f; 15 U.S.C. 80a–6(c); 15 U.S.C. 80a–8; 15 U.S.C. 80a–24(a); 15 U.S.C. 80a–29; 15 U.S.C. 80a–37

*Abstract:* The Division is considering recommending that the Commission adopt amendments to Regulation S–X (Rule 3–05) that affect the disclosure of financial information of acquired businesses. When a registrant acquires a business other than a real estate operation, Rule 305 generally requires a registrant to provide separate audited annual and unaudited interim pre-acquisition financial statements of the business if it is significant to the registrant.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	10/01/15	80 FR 59083
ANPRM Comment Period End.	11/30/15	
NPRM .....	05/28/19	84 FR 24600
NPRM Comment Period End.	07/29/19	
Final Action .....	10/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Todd Hardiman, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551–3516, *Email:* [hardimant@sec.gov](mailto:hardimant@sec.gov).

Patrick Gilmore, Deputy Chief Accountant, Division of Corporation Finance, Securities and Exchange



Commission, 100 F Street NE,  
Washington, DC 20549, *Phone:* 202 551-  
3406, *Email:* gilmorep@sec.gov.  
*RIN:* 3235-AL77

### 360. Universal Proxy

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 78n; 15 U.S.C. 78w(a)

*Abstract:* The Division is considering recommending that the Commission adopt amendments to the proxy rules to allow a shareholder voting by proxy to choose among duly-nominated candidates in a contested election of directors.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/10/16	81 FR 79122
NPRM Comment Period End.	01/09/17	
Final Action .....	10/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Ted Yu, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3500, *Email:* yut@sec.gov.

*RIN:* 3235-AL84

### 361. Filing Fee Disclosure and Payment Methods Modernization

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C. 77s(a); 15 U.S.C. 78c; 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78o(d); 15 U.S.C. 78s(a); 15 U.S.C. 78ll; 15 U.S.C. 80a-8; 15 U.S.C. 80a-24; 15 U.S.C. 80a-29; 15 U.S.C. 80a-37

*Abstract:* The Division is considering recommending that the Commission adopt rule amendments to modernize filing fee disclosure and payment methods.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/27/19	84 FR 71580
NPRM Comment Period End.	02/25/20	
Final Action .....	10/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Mark W. Green, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-0301, *Phone:* 202 551-3430, *Email:* greenm@sec.gov.

*RIN:* 3235-AL96

### 362. Amending the “Accredited Investor” Definition

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77a *et seq.*

*Abstract:* The Division is considering recommending that the Commission adopt amendments to expand the definition of accredited investor under Regulation D of the Securities Act of 1933.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/15/20	85 FR 2574
NPRM Comment Period End.	03/16/20	
Final Action .....	10/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jennifer Zepralka, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202-551-3480, *Email:* zepralkaj@sec.gov.

*RIN:* 3235-AM19

### 363. Harmonization of Exempt Offerings

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77a *et seq.*

*Abstract:* The Commission proposed rule amendments to harmonize and streamline the Commission’s rules for exempt offerings under the Securities Act of 1933, including Regulation A, Regulation D, and Regulation Crowdfunding, in order to enhance their clarity and ease of use.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	06/26/19	84 FR 30460
ANPRM Comment Period End.	09/24/19	
NPRM .....	03/31/20	85 FR 17956
NPRM Comment Period End.	06/01/20	
Final Action .....	10/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jennifer Zepralka, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3430, *Email:* zepralkaj@sec.gov.

*RIN:* 3235-AM27

### 364. Procedural Requirements and Resubmission Thresholds Under Exchange Act Rule 14A-8

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 78a *et seq.*  
*Abstract:* The Division is considering recommending that the Commission adopt rule amendments regarding the thresholds for shareholder proposals under Rule 14a-8.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/04/19	84 FR 66458
NPRM Comment Period End.	02/03/20	
Final Action .....	10/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Dan Greenspan, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3623, *Email:* greenspand@sec.gov.

*RIN:* 3235-AM49

### 365. Amendments to Exemptions From the Proxy Rules for Proxy Voting Advice

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 78a *et seq.*

*Abstract:* The Division is considering recommending that the Commission adopt rule amendments to address certain advisors’ reliance on the proxy solicitation exemptions in Rule 14a-2(b).

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/04/19	84 FR 66518
NPRM Comment Period End.	02/03/20	
Final Action .....	10/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Dan Greenspan, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3623, *Email:* greenspand@sec.gov.

*RIN:* 3235-AM50

## SECURITIES AND EXCHANGE COMMISSION (SEC)

*Division of Corporation Finance*

*Long-Term Actions*

### 366. Pay Versus Performance

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* Pub. L. 111-203, sec. 953(a); 15 U.S.C. 78c(b); 15 U.S.C. 78n; 15 U.S.C. 78w(a); 15 U.S.C. 78mm

*Abstract:* The Commission proposed rules to implement section 953(a) of the

Dodd-Frank Act, which added section 14(i) to the Exchange Act to require issuers to disclose information that shows the relationship between executive compensation actually paid and the financial performance of the issuer.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/07/15	80 FR 26329
NPRM Comment Period End.	07/06/15	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Steven G. Hearne, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551-3430, Email: [hearnes@sec.gov](mailto:hearnes@sec.gov).

RIN: 3235-AL00

### 367. Corporate Board Diversity

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77c(b); 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 78l; 15 U.S.C. 78m

*Abstract:* The Division is considering recommending that the Commission propose amendments to the proxy rules to require additional disclosure about the diversity of board members and nominees.

*Timetable:* Next Action Undetermined.

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Felicia H. Kung, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551-3430, Email: [kungf@sec.gov](mailto:kungf@sec.gov).

RIN: 3235-AL91

## SECURITIES AND EXCHANGE COMMISSION (SEC)

*Division of Corporation Finance*

Completed Actions

### 368. Amendments to the Financial Disclosures for Registered Debt Security Offerings

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77c; 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C. 77h; 15 U.S.C. 77s(a); 15 U.S.C. 77z-3; 15 U.S.C. 78c(b); 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78o(d); 15 U.S.C. 78w(a); 15 U.S.C. 78mm

*Abstract:* The Commission adopted amendments to the financial disclosure requirements for guarantors and issuers of guaranteed securities registered or being registered, and issuers' affiliates whose securities collateralize securities registered or being registered in Regulation S-X to improve those requirements for both investors and registrants.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/02/18	83 FR 49630
NPRM Comment Period End.	12/03/18	
Final Action .....	04/20/20	85 FR 21940
Final Action Effective.	01/04/21	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Sean Harrison, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551-3430, Email: [harrisons@sec.gov](mailto:harrisons@sec.gov).

RIN: 3235-AM12

### 369. Regulation Crowdfunding Amendments

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77a et seq.; 15 U.S.C. 78a et seq.; Pub. L. 112-106; Pub. L. 301-305

*Abstract:* Staff completed, consistent with Release No. 33-9974 (Oct. 30, 2015) 80 FR 71387 (Nov. 16, 2015), a study and submitted a report to the Commission on the impact of Regulation Crowdfunding on capital formation and investor protection. [https://www.sec.gov/files/regulation-crowdfunding-2019\\_0.pdf](https://www.sec.gov/files/regulation-crowdfunding-2019_0.pdf). In a separate rulemaking (<https://www.sec.gov/rules/proposed/2020/33-10763.pdf>), the Commission proposed amendments to Regulation Crowdfunding to address issues identified in the staff's report, such as the relatively modest aggregate Regulation Crowdfunding financing levels compared to the Regulation D market. This item is being withdrawn.

*Timetable:*

Action	Date	FR Cite
Withdrawn (Consolidated With 3235-AM27).	03/31/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Jennifer Zepralka, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549,

Phone: 202 551-3430, Email: [zepralkaj@sec.gov](mailto:zepralkaj@sec.gov).

RIN: 3235-AM20

### 370. Regulation A Amendments

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77c(b); 15 U.S.C. 77s; 15 U.S.C. 77z-3; 15 U.S.C. 78l; 15 U.S.C. 77o; 15 U.S.C. 77o; 15 U.S.C. 77mm

*Abstract:* Staff completed, consistent with Release No. 33-9741 (Mar. 25, 2015) 80 FR 21805 (Apr. 20, 2015), a study and submitted a report to the Commission on the impact of Regulation A offerings on capital formation and investor protection. <https://www.sec.gov/smallbusiness/exemptofferings/reg/2020Report>. In a separate rulemaking (<https://www.sec.gov/rules/proposed/2020/33-10763.pdf>), the Commission proposed amendments to Regulation A to address issues identified in the reviews of the regulation, such as the relatively modest aggregate Regulation A financing levels compared to traditional IPOs and the Regulation D market. This item is being withdrawn.

*Timetable:*

Action	Date	FR Cite
Withdrawn (Consolidated With 3235-AM27).	03/31/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Jennifer Zepralka, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551-3430, Email: [zepralkaj@sec.gov](mailto:zepralkaj@sec.gov).

RIN: 3235-AM21

### 371. Solicitations of Interest Prior to a Registered Public Offering

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C. 77s; 15 U.S.C. 77z-3; 15 U.S.C. 80a-6; 15 U.S.C. 80a-24; 15 U.S.C. 80a-37

*Abstract:* The Commission adopted amendments to extend the testing of the waters provision to non-emerging growth companies.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/28/19	84 FR 6713
NPRM Comment Period End.	04/29/19	
Final Action .....	10/04/19	84 FR 53011
Final Action Effective.	12/03/19	

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* Maryse Mills-Apenteng, Special Counsel, Office of Information Technologies and Services, Securities and Exchange Commission, Division of Corporation Finance, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3457, *Email:* mills-apentengm@sec.gov.

*RIN:* 3235-AM23

### 372. Accelerated Filer Definition

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 7 U.S.C. 2(c)(2)(E); 7 U.S.C. 5221(e)(3); 12 U.S.C. 5461 *et seq.*; 15 U.S.C. 77b; 15 U.S.C. 77b note; 15 U.S.C. 77c; 15 U.S.C. 77d; 15 U.S.C. 77e; 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77h; 15 U.S.C. 77j; 15 U.S.C. 77k; 15 U.S.C. 77r; 15 U.S.C. 77s; 15 U.S.C. 77z-2; 15 U.S.C. 77z-3; 15 U.S.C. 77aa(25); 15 U.S.C. 77aa(26); 15 U.S.C. 77ddd; 15 U.S.C. 77eee; 15 U.S.C. 77ggg; 15 U.S.C. 77hhh; 15 U.S.C. 77iii; 15 U.S.C. 77jjj; 15 U.S.C. 77nnn; 15 U.S.C. 77sss; 15 U.S.C. 77ttt; 15 U.S.C. 78a *et seq.*; 15 U.S.C. 78c; 15 U.S.C. 78c-3; 15 U.S.C. 78c-5; 15 U.S.C. 78d; 15 U.S.C. 78e; 15 U.S.C. 78f; 15 U.S.C. 78g; 15 U.S.C. 78i; 15 U.S.C. 78j; 15 U.S.C. 78j-1; 15 U.S.C. 78j-3; 15 U.S.C. 78k

*Abstract:* The Commission adopted changes to the “accelerated filer” definition in Exchange Act Rule 12b-2 that have the effect of reducing the number of registrants that are subject to the Sarbanes-Oxley Act section 404(b) auditor attestation requirement.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/29/19	84 FR 24876
NPRM Comment Period End.	07/29/19	
Final Action .....	03/26/20	85 FR 17178
Final Action Effective.	04/27/20	

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* John Fieldsend, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3430, *Email:* fieldsendj@sec.gov.

*RIN:* 3235-AM41

## SECURITIES AND EXCHANGE COMMISSION (SEC)

### Division of Investment Management

#### Proposed Rule Stage

### 373. Investment Company Summary Shareholder Report and Modernization of Certain Investment Company Disclosure

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77e; 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C. 77s; 15 U.S.C. 78c(b); 15 U.S.C. 77f; 15 U.S.C. 78j; 15 U.S.C. 78m; 15 U.S.C. 78n; 15 U.S.C. 78o; 15 U.S.C. 78mm; 15 U.S.C. 80 a-6; 15 U.S.C. 80a-8; 15 U.S.C. 80a-20; 15 U.S.C. 80a-24; 15 U.S.C. 80a-29; 15 U.S.C. 80a-37; 44 U.S.C. 3506; 44 U.S.C. 3507

*Abstract:* The Division is considering recommending that the Commission propose a new streamlined shareholder report under the Investment Company Act of 1940. The Division is also considering recommending that the Commission propose rule and form amendments to improve and modernize certain aspects of the current disclosure framework under the Investment Company Act.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/00/20	

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* Michael Kosoff, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-6754, *Email:* kosoffm@sec.gov.

*RIN:* 3235-AM52

### 374. Amendments to Form 13F Filer Threshold

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 78c(b); 15 U.S.C. 78m(f); 15 U.S.C. 78w; 15 U.S.C. 78x; 15 U.S.C. 78mm

*Abstract:* The Division is considering recommending that the Commission propose rule and related form amendments regarding the thresholds for Form 13F filers. Form 13F is the reporting form filed by institutional investment managers pursuant to section 13(f) of the Securities Exchange Act of 1934. Institutional investment managers that exercise investment discretion over \$100 million or more in section 13(f) securities must file Form 13F.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/00/20	

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* Mark Uyeda, Senior Special Counsel, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-6775, *Email:* uyedam@sec.gov.

*RIN:* 3235-AM65

### 375. Amendments to the Family Office Rule

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 80b-2(a)(11)(G); 15 U.S.C. 80b-6a

*Abstract:* The Division is considering recommending that the Commission propose targeted amendments to the family office rule under section 202(a)(11) of the Investment Advisers Act of 1940. Family offices, as so defined in the Act, are excluded from the Act’s definition of investment adviser, and are thus not subject to any of the provisions of the Act.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/00/20	

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* Thoreau Adrian Bartmann, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-6745, *Email:* bartmann@sec.gov.

*RIN:* 3235-AM67

### 376. Amendments to Rule 17a-7 Under the Investment Company Act

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-10(f); 15 U.S.C. 80a-17(d); 15 U.S.C. 80a-37(a)

*Abstract:* The Division is considering recommending that the Commission propose amendments to rule 17a-7 under the Investment Company Act of 1940 concerning the exemption of certain purchase or sale transactions between an investment company and certain affiliated persons.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/00/21	

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* Jacob Krawitz, Branch Chief, Division of Investment

Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551-4673, Email: [krawitzk@sec.gov](mailto:krawitzk@sec.gov).  
RIN: 3235-AM69

### 377. • Investment Company Fair Value

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 80a-2(a); 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-37(a)

*Abstract:* The Commission proposed a rule regarding the valuation practices and the role of the board of directors with respect to the fair value of the investments of a registered investment company or business development company.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/13/20	85 FR 28734
NPRM Comment Period End.	07/21/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Thoreau Adrian Bartmann, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551-6745, Email: [bartmann@sec.gov](mailto:bartmann@sec.gov).  
RIN: 3235-AM71

## SECURITIES AND EXCHANGE COMMISSION (SEC)

*Division of Investment Management*

Final Rule Stage

### 378. Use of Derivatives by Registered Investment Companies and Business Development Companies

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-60; 15 U.S.C. 80a-12(a); 15 U.S.C. 80a-37; 15 U.S.C. 80a-8; 15 U.S.C. 80a-22(c); 15 U.S.C. 80a-18; 15 U.S.C. 78c; 15 U.S.C. 78c-5; 15 U.S.C. 78j; 15 U.S.C. 78o; 15 U.S.C. 78m; 15 U.S.C. 78o-10; 15 U.S.C. 78q; 15 U.S.C. 78w; 15 U.S.C. 78mm; 15 U.S.C. 80b-6; 15 U.S.C. 80b-6a; 15 U.S.C. 80b-8; 15 U.S.C. 80b-aa; 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C. 77s; 15 U.S.C. 78ll

*Abstract:* The Division is considering recommending that the Commission adopt a new rule designed to enhance the regulation of the use of derivatives by registered investment companies, including mutual funds, exchange-traded funds, closed-end funds, and business development companies.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/28/15	80 FR 80884
NPRM Comment Period End.	03/28/16	
Second NPRM ....	01/24/20	85 FR 4446
Second NPRM Comment Period End.	03/04/20	
Final Action .....	10/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Brian Johnson, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551-6740, Email: [johnsonbm@sec.gov](mailto:johnsonbm@sec.gov).  
RIN: 3235-AL60

### 379. Investment Adviser Advertisements; Compensation for Solicitations

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 80b-b(4); 15 U.S.C. 80b-11a; 15 U.S.C. 80b-(4)

*Abstract:* The Division is considering recommending that the Commission adopt amendments to rules 206(4)-1 and 206(4)-3 under the Investment Advisers Act of 1940 regarding marketing communications and practices by investment advisers.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/10/19	84 FR 67518
NPRM Comment Period End.	02/10/20	
Final Action .....	10/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Melissa Harke, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551-6722, Email: [harkem@sec.gov](mailto:harkem@sec.gov).  
RIN: 3235-AM08

### 380. Fund of Funds Arrangements

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 80a-8(b); 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-12(d)(1)(G); 15 U.S.C. 80a-12(d)(1)(J); 15 U.S.C. 80a-17(b); 15 U.S.C. 80a-29(a); 15 U.S.C. 80a-37(a)

*Abstract:* The Division is considering recommending that the Commission adopt new rules and rule amendments to allow funds to acquire shares of other funds (i.e., "fund of funds" arrangements), including arrangements involving exchange-traded funds, without first obtaining exemptive orders from the Commission.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/01/19	84 FR 1286
NPRM Comment Period End.	05/02/19	
Final Action .....	10/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Melissa Gainor, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551-6805, Email: [gainorm@sec.gov](mailto:gainorm@sec.gov).  
RIN: 3235-AM29

### 381. Amendments to Procedures for Applications Under the Investment Company Act

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-37(a)

*Abstract:* The Division is considering recommending that the Commission adopt amendments to rule 0-5 under the Investment Company Act of 1940 to establish an expedited review procedure for certain applications.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/30/19	84 FR 58075
NPRM Comment Period End.	11/29/19	
Final Action .....	10/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Steven Amchan, Attorney, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202-551-6826, Email: [amchans@sec.gov](mailto:amchans@sec.gov).  
RIN: 3235-AM51

## SECURITIES AND EXCHANGE COMMISSION (SEC)

*Division of Investment Management*

Long-Term Actions

### 382. Reporting of Proxy Votes on Executive Compensation and Other Matters

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 78m; 15 U.S.C. 78w(a); 15 U.S.C. 78mm; 15 U.S.C. 78x; 15 U.S.C. 80a-8; 15 U.S.C. 80a-29; 15 U.S.C. 80a-30; 15 U.S.C. 80a-37; 15 U.S.C. 80a-44; Pub. L. 111-203, sec. 951

**Abstract:** The Division is considering recommending that the Commission repropose rule amendments to implement section 951 of the Dodd-Frank Act. The Commission previously proposed amendments to rules and Form N-PX that would require institutional investment managers subject to section 13(f) of the Exchange Act to report how they voted on any shareholder vote on executive compensation or golden parachutes pursuant to sections 14A(a) and (b) of the Exchange Act.

**Timetable:**

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End. Next Action Undetermined.	10/28/10 11/18/10	75 FR 66622

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Jacob Krawitz, Branch Chief, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-4673, *Email:* krawitzk@sec.gov.

*RIN:* 3235-AK67

### 383. Amendments to the Custody Rules for Investment Companies

**E.O. 13771 Designation:** Independent agency.

**Legal Authority:** 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-17(f); 15 U.S.C. 80a-26; 15 U.S.C. 80a-28; 15 U.S.C. 80a-29; 15 U.S.C. 80a-30; 15 U.S.C. 80a-31; 15 U.S.C. 80a-36; 15 U.S.C. 80a-37; 15 U.S.C. 80a-37(a)

**Abstract:** The Division is considering recommending that the Commission propose amendments to rules concerning custody under the Investment Company Act of 1940.

**Timetable:** Next Action Undetermined.

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Jacob Krawitz, Branch Chief, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-4673, *Email:* krawitzk@sec.gov.

*RIN:* 3235-AM66

### 384. • Amendments To Improve Fund Proxy System

**E.O. 13771 Designation:** Independent agency.

**Legal Authority:** 15 U.S.C. 78m; 15 U.S.C. 78w; 15 U.S.C. 78mm; 15 U.S.C. 80a-2; 15 U.S.C. 80a-6; 15 U.S.C. 80a-20; 15 U.S.C. 80a-30; 15 U.S.C. 80a-37

**Abstract:** The Division is considering recommending that the Commission propose rule and form amendments to address the fund proxy system and the unique challenges that funds as issuers may experience in seeking shareholder approvals.

**Timetable:** Next Action Undetermined.

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Amanda Wagner, Branch Chief, Investment Company Regulation Office, Securities and Exchange Commission, Division of Investment Management, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-6762, *Email:* wagnera@sec.gov.

*RIN:* 3235-AM73

## SECURITIES AND EXCHANGE COMMISSION (SEC)

### Division of Investment Management

#### Completed Actions

### 385. Offering Reform for Business Development Companies Under the Small Business Credit Availability Act and Closed-End Funds Under the Economic Growth, Regulatory Relief, and Consumer Protection Act

**E.O. 13771 Designation:** Independent agency.

**Legal Authority:** 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77h; 15 U.S.C. 77j; 15 U.S.C. 77s; 15 U.S.C. 77z-3; 15 U.S.C. 78c; 15 U.S.C. 78d; 15 U.S.C. 78j; 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78n; 15 U.S.C. 78o; 15 U.S.C. 78q; 15 U.S.C. 78w; 15 U.S.C. 78ll; 15 U.S.C. 78mm; 15 U.S.C. 80a-6; 15 U.S.C. 80a-8; 15 U.S.C. 80a-20; 15 U.S.C. 80a-23; 15 U.S.C. 80a-24; 15 U.S.C. 80a-30; 15 U.S.C. 80a-31; 15 U.S.C. 80a-38; Pub. L. 115-141, title VIII, sec. 803(b); Pub. L. 115-174, title V, sec. 509(a)

**Abstract:** The Commission adopted amendments that modify the registration, communications, and offering processes for business development companies (BDCs) and other closed-end investment companies under the Securities Act of 1933; tailor the disclosure and regulatory framework to these investment companies; expand the ability of certain registered closed-end funds or BDCs that conduct continuous offerings to make changes to their registration statements on an immediately effective basis or on an automatically effective basis a set period of time after filing; and establish certain structured data reporting requirements.

**Timetable:**

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End. Final Action ..... Final Action Effective.	04/10/19 06/10/19 06/01/20 08/01/20	84 FR 14448 85 FR 33290

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Brian Johnson, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202-551-6740, *Email:* johnsonbm@sec.gov.

*RIN:* 3235-AM31

## SECURITIES AND EXCHANGE COMMISSION (SEC)

### Division of Trading and Markets

#### Long-Term Actions

### 386. Removal of Certain References to Credit Ratings Under the Securities Exchange Act of 1934

**E.O. 13771 Designation:** Independent agency.

**Legal Authority:** Pub. L. 111-203, sec. 939A

**Abstract:** Section 939A of the Dodd-Frank Act requires the Commission to remove certain references to credit ratings from its regulations and to substitute such standards of creditworthiness as the Commission determines to be appropriate. The Commission amended certain rules and one form under the Exchange Act applicable to broker-dealer financial responsibility and confirmation of transactions. The Commission has not yet finalized amendments to certain rules regarding the distribution of securities.

**Timetable:**

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End. Final Action ..... Final Action Effective. Next Action Undetermined.	05/06/11 07/05/11 01/08/14 07/07/14	76 FR 26550 79 FR 1522

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** John Guidroz, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202-551-6439, *Email:* guidrozj@sec.gov.

*RIN:* 3235-AL14

**SECURITIES AND EXCHANGE  
COMMISSION (SEC)***Offices and Other Programs*

Final Rule Stage

**387. Amendments to Certain Provisions  
of the Auditor Independence Rules***E.O. 13771 Designation:* Independent agency.*Legal Authority:* 15 U.S.C. 77(f); 15 U.S.C. 77(g); 15 U.S.C. 77(h); 15 U.S.C. 77(j); 15 U.S.C. 77(s); 15 U.S.C. 77(z-2); 15 U.S.C. 77(z-3); 15 U.S.C. 77(aa(25)); 15 U.S.C. 77(aa(26)); 15 U.S.C. 77(nn(25)); 15 U.S.C. 77(nn(26)); 15 U.S.C. 78(c); 15 U.S.C. 78(j-1); 15 U.S.C. 78(l); 15 U.S.C. 78(m); 15 U.S.C. 78(n);

15 U.S.C. 78(o(d)); 15 U.S.C. 78(q); 15 U.S.C. 78(u-5); 15 U.S.C. 78(w); 15 U.S.C. 78(ll); 15 U.S.C. 78(mm); 15 U.S.C. 80(a-8); 15 U.S.C. 80(a-20); 15 U.S.C. 80(a-29); 15 U.S.C. 80(a-30); 15 U.S.C. 80(a-31); 15 U.S.C. 80(a-37(a)); 15 U.S.C. 80(b-3); 15 U.S.C. 80(b-11); 15 U.S.C. 7202; 15 U.S.C. 7262; Pub. L. 112-106, sec. 102(c); 126 Stat. 310 (2012)

*Abstract:* The Office of the Chief Accountant is considering recommending that the Commission adopt amendments to update certain auditor independence rules to facilitate capital formation, in a manner consistent with investor protection.*Timetable:*

Action	Date	FR Cite
NPRM .....	01/15/20	85 FR 2332
NPRM Comment Period End.	03/16/20	
Final Action .....	10/00/20	

*Regulatory Flexibility Analysis  
Required:* Yes.*Agency Contact:* Duc Dang, Attorney, Office of Chief Accountant, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3386, *Email:* dangd@sec.gov.*RIN:* 3235-AM63

[FR Doc. 2020-16750 Filed 8-25-20; 8:45 am]

**BILLING CODE 8011-01-P**



# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XXX

Surface Transportation Board

---

Semiannual Regulatory Agenda

**SURFACE TRANSPORTATION BOARD****49 CFR Ch. X****[STB Ex Parte No. 536 (Sub-No. 48)]****Semiannual Regulatory Agenda****AGENCY:** Surface Transportation Board.**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The Chairman of the Surface Transportation Board is publishing the Regulatory Flexibility Agenda for spring 2020.

**FOR FURTHER INFORMATION CONTACT:** A contact person is identified for each of the rules listed below.

**SUPPLEMENTARY INFORMATION:** The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that, semiannually, each agency shall publish in the **Federal Register** a Regulatory Flexibility Agenda, which shall contain:

(1) A brief description of the subject area of any rule that the agency expects to propose or promulgate, which is

likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable about the items listed in paragraph (1).

Accordingly, a list of proceedings appears below containing information about subject areas in which the Board is currently conducting rulemaking proceedings or may institute such proceedings in the near future. It also contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda represents the Chairman's best estimate of rules that may be considered over the next 12 months, but does not necessarily reflect the views of

any other individual Board Member. However, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a Regulatory Flexibility Agenda or requires an agency to consider or act on any matter listed in such agenda."

The Chairman is publishing the agency's Regulatory Flexibility Agenda for spring 2020 as part of the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Unified Agenda is coordinated by the Office of Management and Budget (OMB), pursuant to Executive Orders 12866 and 13563. The Board is participating voluntarily in the program to assist OMB and has included rulemaking proceedings in the Unified Agenda beyond those required by the RFA.

Dated: March 4, 2020.

By the Board, Chairman Begeman.

**Jeffrey Herzig,**  
Clearance Clerk.

**SURFACE TRANSPORTATION BOARD—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
388 .....	Review of Commodity, Boxcar, and TOFC/COFC Exemptions, EP 704 (Sub-No. 1) .....	2140-AB29

**SURFACE TRANSPORTATION BOARD—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
389 .....	Exclusion of Demurrage Regulation From Certain Class Exemptions, EP 760 .....	2140-AB48

**SURFACE TRANSPORTATION BOARD (STB)****Long-Term Actions****388. Review of Commodity, Boxcar, and TOFC/COFC Exemptions, EP 704 (Sub-No. 1)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 49 U.S.C. 10502; 49 U.S.C. 13301

*Abstract:* The Board proposed to revoke the class exemptions for the rail transportation of: (1) Crushed or broken stone or riprap; (2) hydraulic cement; and (3) coke produced from coal, primary iron or steel products, and iron or steel scrap, wastes, or tailings. On March 19, 2019, the Board issued a decision waiving the prohibition on ex parte communications in this proceeding and providing a 90-day period for meetings with Board members.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/28/16	81 FR 17125
NPRM Comment Period End.	07/26/16	
NPRM Reply Comment Period End.	08/26/16	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Amy Ziehm, Branch Chief, Office of Proceedings, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, *Phone:* 202 245-0391, *Email:* amy.ziehm@stb.gov.

Francis O'Connor, Deputy Director, Office of Economics, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, *Phone:*

202 245-0331, *Email:* francis.o'connor@stb.gov.

*RIN:* 2140-AB29

**SURFACE TRANSPORTATION BOARD (STB)****Completed Actions****389. Exclusion of Demurrage Regulation From Certain Class Exemptions, EP 760**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 49 U.S.C. 10502; 49 U.S.C. 13301

*Abstract:* The Board adopted rules to clarify its regulations governing exemptions for certain miscellaneous commodities and boxcar transportation so that those regulations unambiguously state that demurrage continues to be subject to Board regulation. The Board



also revoked, in part, the exemption that currently covers certain agricultural commodities so that the exemption would not apply to the regulation of demurrage, thereby making the agricultural commodities exemption consistent with similar exemptions covering non-intermodal transportation.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/15/19	84 FR 55109
NPRM Comment Period End.	11/06/19	
NPRM Reply Comment Period End.	12/06/19	
Final Rule .....	03/04/20	85 FR 12749
Final Rule Effective.	04/03/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Amy Ziehm, Branch Chief, Office of Proceedings, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, *Phone:* 202 245-0391, *Email:* amy.ziehm@stb.gov.

*RIN:* 2140-AB48

[FR Doc. 2020-16771 Filed 8-25-20; 8:45 am]

**BILLING CODE 4915-01-P**





# FEDERAL REGISTER

---

Vol. 85

Wednesday,

No. 166

August 26, 2020

---

Part XXXI

Federal Permitting Improvement Council

---

Semiannual Regulatory Agenda

**FEDERAL PERMITTING  
IMPROVEMENT STEERING COUNCIL****40 CFR Part 1900****Unified Agenda of Federal Regulatory  
and Deregulatory Actions**

**AGENCY:** Federal Permitting Improvement Steering Council.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This agenda contains the proposed regulatory actions that the Federal Permitting Improvement Steering Council (Permitting Council or FPISC) plans to undertake in the 12 months following the General Service Administration's fall 2019 edition of its semiannual regulatory agenda, which included the Permitting Council's previous regulatory agenda. The Permitting Council developed this agenda consistent with Executive Order 12866 "Regulatory Planning and Review," as amended, Executive Order 13771 "Reducing Regulation and Controlling Regulatory Costs," and Executive Order 13563 "Improving Regulation and Regulatory Review."

**FOR FURTHER INFORMATION CONTACT:** John Cossa, Senior Counsel, Federal Permitting Improvement Steering

Council, Office of the Executive Director, 1800 G Street NW, Suite 2400, Washington, DC 20405, (202) 322-6856, [john.cossa@fpisc.gov](mailto:john.cossa@fpisc.gov).

**SUPPLEMENTARY INFORMATION:** Title 41 of the Fixing America's Surface Transportation Act (FAST-41), 42 U.S.C. 4370m *et seq.*, created the Permitting Council, which is comprised of an Office of the Executive Director, 13 Federal Agency Council members, and additional Council members Council on Environmental Quality and Office of Management and Budget. 42 U.S.C. 4370m-1(a) & (b). The Permitting Council is charged with improving the timeliness, predictability, and transparency of the federal environmental review and authorization process for certain critical and high economic value infrastructure projects across a broad range of industry sectors, including renewable and conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, and manufacturing. Certain actions of the Permitting Council are rules of general applicability that affect the rights of the public and the regulated community and warrant informal

rulemaking pursuant to section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

The Permitting Council's complete Unified Agenda will be available online at [www.reginfo.gov](http://www.reginfo.gov) and [www.regulations.gov](http://www.regulations.gov) in a format that offers users an enhanced ability to obtain information from the Unified Agenda database. Publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 602. Accordingly, the Permitting Council's printed agenda entries will include only:

(1) Rules that are included in the regulatory flexibility agenda pursuant to the RFA because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) rules that have been identified for periodic review under section 610 of the RFA, 5 U.S.C. 610.

Printing of the semiannual regulatory agenda entries is limited to fields that contain information required by the RFA's Unified Agenda requirements.

**Alexander Herrgott,**  
*Executive Director.*

**FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
390 .....	FPISC Case 2020-001, Adding Non-Energy Mining as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America's Surface Transportation Act (FAST-41).	3121-AA01
391 .....	Adding Land Revitalization as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America's Surface Transportation Act (FAST-41).	3121-AA02

**FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
392 .....	FPISC Case 2018-001; Fees for Governance, Oversight, and Processing of Environmental Reviews and Authorizations.	3121-AA00

**FEDERAL PERMITTING  
IMPROVEMENT STEERING COUNCIL  
(FPISC)****Proposed Rule Stage****390. FPISC Case 2020-001, Adding  
Non-Energy Mining as a Sector of  
Projects Eligible for Coverage Under  
Title 41 of the Fixing America's Surface  
Transportation Act (Fast-41)**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 42 U.S.C.  
4370m(6)(A)

*Abstract:* Title 41 of the Fixing America's Surface Transportation Act (FAST-41), 42 U.S.C. 4370m *et seq.*,

established the Federal Permitting Improvement Council (Permitting Council), which is comprised of an Office of the Executive Director, 13 Federal Agency Council members, and additional Council members Council on Environmental Quality and Office of Management and Budget. The Permitting Council is charged with improving the timeliness, predictability, and transparency of the federal environmental review and authorization process for "covered" infrastructure projects across a statutorily-identified range of industry sectors, including renewable and conventional energy production, electricity transmission,

surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, and manufacturing. FAST-41 authorizes the Permitting Council, by majority vote of the Council members, to add classes of projects to those eligible for FAST-41 coverage. 42 U.S.C. 4370m(6)(A). Pursuant to that authority, and consistent with Executive Orders 13807 and 13817, the Permitting Council is proposing to include non-energy mining as a sector of projects eligible for coverage under FAST-41. Inclusion of non-energy mining on the covered sector list does not guarantee that any particular mining project will be

covered under FAST-41 or receive the benefits of enhanced coordination under the statute. A project sponsor seeking the benefits of FAST-41 must apply to the Permitting Council for project coverage.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	
NPRM Comment Period End.	07/00/20	
Final Rule .....	10/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Nicholas A. Falvo, Attorney—Advisor, Federal Permitting Improvement Steering Council, 1800 G Street NW, Suite 2400, Washington, DC 20006, *Phone:* 202 430-4463, *Email:* [nicholas.falvo@fpisc.gov](mailto:nicholas.falvo@fpisc.gov), *RIN:* 3121-AA01

**391. • Adding Land Revitalization as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America's Surface Transportation Act (Fast-41)**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 42 U.S.C. 4370m(6)(A)

*Abstract:* Title 41 of the Fixing America's Surface Transportation Act (FAST-41), 42 U.S.C. 4370m *et seq.*, established the Federal Permitting Improvement Council (Permitting Council), which is comprised of an Office of the Executive Director, 13 Federal Agency Council members and additional Council members Council on Environmental Quality and the Office of Management and Budget. The Permitting Council is charged with improving the timeliness, predictability, and transparency of the Federal environmental review and authorization

process for covered infrastructure projects across a statutorily-identified range of industry sectors, including renewable and conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, and manufacturing. FAST-41 authorizes the Permitting Council, by majority vote of the Council members, to add classes of projects to those eligible for FAST-41 coverage. 42 U.S.C. 4370m(6)(A). Pursuant to that authority, and consistent with Executive Orders 13807 and 13817, the Permitting Council is proposing to include land revitalization as a sector of projects eligible for coverage under FAST-41. Inclusion of land revitalization on the covered sector list does not guarantee that any particular land revitalization project will be covered under FAST-41 or receive the benefits of enhanced coordination under the statute. A project sponsor seeking the benefits of FAST-41 must apply to the Permitting Council for project coverage.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/00/20	
NPRM Comment Period End.	08/00/20	
Final Rule .....	11/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Nicholas A. Falvo, Attorney—Advisor, Federal Permitting Improvement Steering Council, 1800 G Street NW, Suite 2400, Washington, DC 20006, *Phone:* 202 430-4463, *Email:* [nicholas.falvo@fpisc.gov](mailto:nicholas.falvo@fpisc.gov), *RIN:* 3121-AA02

**FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL (FPISC)**

Final Rule Stage

**392. FPISC Case 2018-001; Fees for Governance, Oversight, and Processing of Environmental Reviews and Authorizations**

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 42 U.S.C. 4370m-8

*Abstract:* The Permitting Council is considering finalizing the regulation proposed on September 4, 2018, 83 FR 44,846, that would establish a fee structure to reimburse the Permitting Council for reasonable costs incurred in coordinating environmental reviews and authorizations pursuant to title 41 of the Fixing America's Surface Transportation Act (FAST-41), 42 U.S.C. 4370m *et seq.*

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/04/18	83 FR 44846
NPRM Comment Period End.	11/05/18	
Final Rule .....	10/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Amber Levofsky, Executive Operations Manager, Federal Permitting Improvement Steering Council, 1800 G Street NW, Suite 2400, Washington, DC 20006, *Phone:* 202 214-2064, *Email:* [amber.levofsky@fpisc.gov](mailto:amber.levofsky@fpisc.gov), *RIN:* 3121-AA00

[FR Doc. 2020-16772 Filed 8-25-20; 8:45 am]

**BILLING CODE 6820-PL-P**

# Reader Aids

## Federal Register

Vol. 85, No. 166

Wednesday, August 26, 2020

## CUSTOMER SERVICE AND INFORMATION

### Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202-741-6000****Laws** **741-6000**

### Presidential Documents

Executive orders and proclamations **741-6000****The United States Government Manual** **741-6000**

### Other Services

Electronic and on-line services (voice) **741-6020**Privacy Act Compilation **741-6050**

## ELECTRONIC RESEARCH

### World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: [www.govinfo.gov](http://www.govinfo.gov).Federal Register information and research tools, including Public Inspection List and electronic text are located at: [www.federalregister.gov](http://www.federalregister.gov).

### E-mail

**FEDREGTOC** (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.To join or leave, go to <https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new>, enter your email address, then follow the instructions to join, leave, or manage your subscription.**PENS** (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.To subscribe, go to <http://listserv.gsa.gov/archives/publaws-l.html> and select *Join or leave the list (or change settings)*; then follow the instructions.**FEDREGTOC** and **PENS** are mailing lists only. We cannot respond to specific inquiries.**Reference questions.** Send questions and comments about the Federal Register system to: [fedreg.info@nara.gov](mailto:fedreg.info@nara.gov)

The Federal Register staff cannot interpret specific documents or regulations.

## FEDERAL REGISTER PAGES AND DATE, AUGUST

46531-47012.....	3	52471-52878.....	26
47013-47292.....	4		
47293-47634.....	5		
47635-47890.....	6		
47891-48074.....	7		
48075-48464.....	10		
48465-48644.....	11		
48645-49228.....	12		
49229-49588.....	13		
49589-49940.....	14		
49941-50756.....	17		
50757-50936.....	18		
50937-51300.....	19		
51301-51630.....	20		
51631-52024.....	21		
52025-52236.....	24		
52237-52470.....	25		

## CFR PARTS AFFECTED DURING AUGUST

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

### 1 CFR

#### Proposed Rules:

1 .....	52664, 52670, 52676,
	52696, 52700, 52704, 52716,
	52726, 52730, 52738, 52756,
	52760, 52762, 52764, 52772,
	52778, 52780, 52782, 52784,
	52792, 52806, 52810, 52816,
	52822, 52852, 52856, 52858,
	52862, 52872, 52876

### 2 CFR

25 .....	49506
170 .....	49506
183 .....	49506
200 .....	49506, 50757
1103 .....	51158
1104 .....	51158
1108 .....	51229
1120 .....	51161
1122 .....	51223
1125 .....	51158
1126 .....	51167
1128 .....	51167
1130 .....	51167
1132 .....	51167
1134 .....	51167
1136 .....	51167
1138 .....	51167

### 3 CFR

#### Proclamations:

10060 .....	49921
10061 .....	51295
10062 .....	51631

#### Executive Orders:

13940 .....	47879
13941 .....	47881
13942 .....	48637
13943 .....	48641
13944 .....	49929
13945 .....	49935

#### Administrative Orders:

Memorandums:	
Memorandum of	
August 3, 2020 .....	47885
Memorandum of	
August 3, 2020 .....	47887
Memorandum of	
August 3, 2020 .....	47889
Memorandum of	
August 7, 2020 .....	49223
Memorandum of	
August 7, 2020 .....	49225
Memorandum of	
August 7, 2020 .....	49227
Memorandum of	
August 8, 2020 .....	49585
Memorandum of	
August 8, 2020 .....	49587
Notices:	
Notice of August 13,	

2020 .....	49939
Orders:	
Order of August 14,	
2020 .....	51297
Presidential Permits:	
Permit of July 29,	
2020 .....	46997
Permit of July 29,	
2020 .....	47001
Permit of July 29,	
2020 .....	47005
Permit of July 29,	
2020 .....	47009

### 5 CFR

630 .....	48075, 48096
2611 .....	51301
2638 .....	51301

### 7 CFR

9 .....	49589, 49593
271 .....	52025
274 .....	52025
278 .....	52471
279 .....	52471
1150 .....	47293
1400 .....	52033

#### Proposed Rules:

205 .....	47536
984 .....	47305, 52278
1206 .....	50795
1217 .....	49281

### 8 CFR

103 .....	46788, 49941
106 .....	46788, 49941
204 .....	46788, 49941
211 .....	46788, 49941
212 .....	46788, 49941
214 .....	46788, 49941, 51304
216 .....	46788, 49941
217 .....	46788, 49941
223 .....	46788, 49941
235 .....	46788, 49941
236 .....	46788, 49941
240 .....	46788, 49941
244 .....	46788, 49941
245 .....	46788, 49941
245a .....	46788, 49941
248 .....	46788, 49941
264 .....	46788, 49941
274a .....	46788, 49941, 51304
286 .....	46788, 49941
301 .....	46788, 49941
319 .....	46788, 49941
320 .....	46788, 49941
322 .....	46788, 49941
324 .....	46788, 49941
334 .....	46788, 49941
341 .....	46788, 49941
343a .....	46788, 49941
343b .....	46788, 49941
392 .....	46788, 49941

<b>Proposed Rules:</b>	744.....51335, 51596	<b>31 CFR</b>	180 .....48651, 48654, 49261, 51354, 51668, 52483
1003.....52491	762.....51596	501 .....48474	228 .....47035
1240.....52491	<b>Proposed Rules:</b>	1010.....48104, 48105	300 .....50786
<b>9 CFR</b>	Ch. XV .....52059	<b>32 CFR</b>	721 .....46550, 51657, 52274
<b>Proposed Rules:</b>	<b>16 CFR</b>	21 .....51238	<b>Proposed Rules:</b>
1 .....51368	315.....50668	22 .....51238	50 .....49830
2 .....51368	<b>Proposed Rules:</b>	32 .....51238	52 .....46576, 46581, 47125, 47134, 47939, 48127
3 .....51368	1107 .....52078	33 .....51238	62 .....48485
57 .....50796	1109 .....52078	34 .....51238	63 .....52198
161 .....50796	<b>19 CFR</b>	37 .....51238	82 .....47940
<b>10 CFR</b>	Ch. I .....51633, 51634	220 .....51347	87 .....51556, 52574
430.....50757, 50937	24 .....47018	625 .....51645	152 .....51394
590.....52237	<b>Proposed Rules:</b>	<b>Proposed Rules:</b>	174 .....51395
<b>Proposed Rules:</b>	351 .....49472	750 .....51374	180 .....47330
50 .....52058	<b>20 CFR</b>	<b>33 CFR</b>	281 .....49611
430 .....49284, 49297, 52280	426 .....51337	100 .....47027, 47912, 48108, 51351, 51646	300 .....47331, 48132
431 .....47472	617 .....51896	110 .....50784	721 .....52294
<b>11 CFR</b>	618 .....51896	165 .....46536, 47027, 47030, 47648, 47650, 47912, 47913, 48107, 48110, 51648	1030 .....51556, 52574
111 .....47891	<b>21 CFR</b>	<b>Proposed Rules:</b>	<b>41 CFR</b>
<b>12 CFR</b>	1 .....50780	100 .....47936	105-60 .....52049
9 .....49229	101 .....49240	110 .....47936	<b>42 CFR</b>
303 .....51312	558 .....50783	117 .....47328	84 .....52488
308 .....51312	573 .....48650	165 .....47937	409 .....47594
611 .....52248	610 .....51635	<b>34 CFR</b>	410 .....50074
615 .....52248	882 .....50950	75 .....49965	412 .....47042, 48424
621 .....52248	895 .....50950	Ch. III .....46538, 47652, 47656, 47664, 47668, 47915, 49965	413 .....47594
1026 .....50944	1005 .....50780	600 .....49798	414 .....50074
<b>Proposed Rules:</b>	1308 .....51340, 51342, 51639	674 .....49798	415 .....50074
702 .....50963	1312 .....51639	675 .....49798	418 .....47070
1289 .....49312	<b>Proposed Rules:</b>	676 .....49798	423 .....50074
<b>14 CFR</b>	1 .....46566	682 .....49798	424 .....50074
21 .....47295	73 .....52081	685 .....49798	425 .....50074
25 .....48645	112 .....48124	686 .....49798	482 .....47042
29 .....48646	890 .....49986	690 .....49798	600 .....49264
33 .....52041	<b>23 CFR</b>	692 .....49798	<b>Proposed Rules:</b>
39 .....46531, 46533, 47013, 47295, 47297, 47635, 47638, 47641, 48102, 48465, 49233, 49235, 49238, 49941, 49944, 49947, 49949, 49952, 49954, 49957, 49959, 49962, 50767, 50770, 50772, 52043, 52254, 52257, 52260, 52263, 52266, 52268	<b>Proposed Rules:</b>	694 .....49798	410 .....48772
61 .....47295	645 .....49328	<b>24 CFR</b>	411 .....48772
63 .....47295	<b>24 CFR</b>	5 .....47899	412 .....47723, 48772
65 .....47295	91 .....47899	91 .....47899	414 .....48772
71 .....47016, 47017, 47894, 50774, 50777, 50779, 51324, 51325, 51327, 51329, 52045, 52270	92 .....47899	92 .....47899	416 .....48772
91 .....47295	214 .....47300	570 .....47899, 52479	419 .....48772
93 .....47895	574 .....47899	576 .....47899	423 .....47151
97 .....47643, 47645, 51331, 51333	903 .....47899	903 .....47899	<b>43 CFR</b>
107 .....47295	<b>26 CFR</b>	<b>36 CFR</b>	<b>Proposed Rules:</b>
125 .....47295	1 .....47027, 48467, 48651, 49595, 51346	251 .....48475	8365 .....49995
141 .....47295	<b>Proposed Rules:</b>	<b>37 CFR</b>	<b>44 CFR</b>
<b>Proposed Rules:</b>	1 .....47323, 47508, 48485, 49754, 51369	1 .....46932	64 .....47673, 52052
39 .....46560, 46563, 47118, 47122, 47698, 47712, 47714, 47716, 47919, 47921, 47925, 48122, 48480, 48482, 49322, 49978, 49981, 50970, 82281, 52284, 52287	301 .....47931	11 .....46932	328 .....48113
71 .....47317, 47321, 47322, 47718, 47928, 49324, 49327, 49607, 49609, 49610, 49983, 49985, 52289	<b>27 CFR</b>	42 .....46932	<b>45 CFR</b>
<b>15 CFR</b>	9 .....52271	<b>38 CFR</b>	170 .....47099
736 .....51596	<b>28 CFR</b>	<b>Proposed Rules:</b>	171 .....47099
	50 .....50951	9 .....50973	<b>Proposed Rules:</b>
	<b>Proposed Rules:</b>	<b>39 CFR</b>	1 .....51396, 52515
	26 .....47324	<b>Proposed Rules:</b>	<b>46 CFR</b>
	72 .....49332	113 .....46575, 47720	540 .....49600
	<b>29 CFR</b>	<b>40 CFR</b>	<b>47 CFR</b>
	90 .....51896	1 .....51650	1 .....50886, 51357
	4022 .....49595	9 .....46550, 51657, 52274	5 .....52054, 52422
	4908 .....52481	49 .....51650	15 .....52054
	<b>Proposed Rules:</b>	51 .....49596	25 .....52422
	2550 .....52292	52 .....47032, 47670, 48111, 49967, 50784, 50953, 50955, 51663, 51666, 52047	64 .....52489
		63 .....49084, 49434, 49724, 51668	73 .....48120
		71 .....51650	76 .....51363
		81 .....47032, 47670	97 .....52422
		97 .....49170	<b>Proposed Rules:</b>
		124 .....51650	1 .....48134, 50911

5.....52455	1539.....46556	<b>50 CFR</b>	48477, 49602, 50793, 52056,
20.....49998	1552.....46556	17.....48332	52057, 52275
25.....52455	<b>Proposed Rules:</b>	20.....51854	665.....50961
54.....48134	7.....52081	92.....49601	679.....48477, 48478, 49606,
73.....51401	8.....50989	216.....49975	49976, 51672, 52489
74.....51401	38.....50989	217.....50720	<b>Proposed Rules:</b>
97.....52455		223.....48332	17.....48487, 50991, 52516
<b>48 CFR</b>	<b>49 CFR</b>	224.....48332	223.....48144
501.....50957	396.....50787	229.....50959	224.....48144
516.....50958	1002.....47099	300.....49975	424.....47333
552.....50958	1011.....47675	622.....47304, 47917, 52055	622.....49355
570.....50957	1111.....47675	635.....48120	648.....48660
		648.....47102, 47103, 48476,	680.....47157



---

**LIST OF PUBLIC LAWS**

---

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

**Last List August 18, 2020**

---

**Public Laws Electronic Notification Service (PENS)**

---

**PENS** is a free email notification service of newly enacted public laws. To subscribe, go to [https://](https://listserv.gsa.gov/cgi-bin/wa.exe?SUBED1=PUBLAWS-L&A=1)

[listserv.gsa.gov/cgi-bin/wa.exe?SUBED1=PUBLAWS-L&A=1](https://listserv.gsa.gov/cgi-bin/wa.exe?SUBED1=PUBLAWS-L&A=1)

**Note:** This service is strictly for email notification of new laws. The text of laws is not available through this service.

**PENS** cannot respond to specific inquiries sent to this address.